

# Chapter 10-20: Administration, Procedures, and Enforcement

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## Division 10-20.10: Purpose

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### Sections:

10-20.10.010 Purpose

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### 10-20.10.010 Purpose

The purpose of this Chapter is to set forth the organization, powers, and duties of the Review Authorities responsible for Zoning Code administration, to provide for the orderly application and processing of development applications, and to set forth provisions for the enforcement of this Zoning Code. Table A (Permits and Approvals), below lists the permits addressed in this Chapter, specifically in Division 10-20.40 (Permits and Approvals). Table 10-20.80.010.A (Review Authorities) identifies the Review Authority responsible for reviewing and making decisions on applications required by this Zoning Code.

Table 10-20.10.010.A: Permits and Approvals		
Name of Permit/Approval	Zoning Code Chapter/Section	Applicability of Permit
Avigation Easement	10-20.40.020	An Avigation Easement is intended to protect the Airport from the encroachment of incompatible development in surrounding areas.
Building Permits and Certificates of Occupancy	10-20.40.030	A Building Permit may be required prior to construction (See also Minor Improvement Permit (10-20.40.080)). A Certificate of Occupancy is required upon completion of construction and prior to occupancy.
Building Relocation Requests	10-20.40.040	A Building Relocation Request must be submitted and a Moving Permit obtained when an existing structure is relocated to a new site.
Conditional Use Permits	10-20.40.050	A Conditional Use Permit (UP) is required to authorize certain land uses specified by Chapter 10-40 (Specific to Zones).
Development Agreements	10-20.40.060	A Development Agreement, compliant with A.R.S. § 9-500.05, may be required for certain developments.

**Table 10-20.10.010.A: Permits and Approvals**

<b>Name of Permit/Approval</b>	<b>Zoning Code Chapter/Section</b>	<b>Applicability of Permit</b>
Home Occupation Permits	10-20.40.070	A Home Occupation Permit is required for home occupations conducted within a dwelling in a residential or commercial zone (See 10-40.60.180 (Home Occupations) for home occupation standards).
Minor Improvement Permits	10-20.40.080	A Minor Improvement Permit is required for development that does not otherwise require a Building Permit.
Minor Modifications to Development Standards	10-20.40.090	A Minor Modification to a development standard may be granted by the Zoning Code Administrator under certain circumstances.
Outdoor Lighting Permits	10-20.40.100	An Outdoor Lighting Permit is required for installation of outdoor lighting as specified in Division 10-50.70 (Outdoor Lighting Standards).
Parking Lot Maintenance Permits	10-20.40.110	A Parking Lot Maintenance Permit is required when a parking lot is repaved, resealed, or restriped.
Sign Permits – Permanent Sign Structure	10-20.40.120	A Sign Permit is required for the installation or remodeling of certain signs.
Sign Permits – Temporary Signs	10-20.40.130	A Temporary Sign Permit is required for the installation of certain temporary signs.
Site Plan Review and Approval	10-20.40.140	Site Plan Review and Approval is required before construction of any structure erected in the zones described in Chapter 10-40 (Specific to Zones), and as authorized by the Review Authorities specified in Table 10-20.80.010.A (Review Authorities).
Temporary Use Permits	10-20.40.150	A Temporary Use Permit is required to allow short term activities that might not meet the development or use standards of the applicable zone, but may otherwise be acceptable because of their temporary nature.

**Table 10-20.10.010.A: Permits and Approvals**

<b>Name of Permit/Approval</b>	<b>Zoning Code Chapter/Section</b>	<b>Applicability of Permit</b>
Zoning Verification	10-20.40.160	A Zoning Verification Letter may be requested by a property owner or a representative for a property owner who is seeking verification of the zoning status for a property.

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## Division 10-20.20: Administration

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### Sections:

- 10-20.20.010 Purpose
- 10-20.20.020 Administrative Hearing Officer
- 10-20.20.030 Board of Adjustment
- 10-20.20.040 Council
- 10-20.20.050 Heritage Preservation Commission
- 10-20.20.060 Historic Preservation Officer
- 10-20.20.070 Planning Commission
- 10-20.20.080 Planning Director
- 10-20.20.090 Zoning Code Administrator

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### **10-20.20.010 Purpose**

The purpose of this Division is to identify and set forth the powers and duties of the Review Authorities with responsibilities in compliance with this Zoning Code. Subsequent sections provide detailed information regarding procedures, applications, permits, and enforcement. When carrying out their assigned duties and responsibilities, all Review Authorities shall interpret and apply the provisions of this Zoning Code as minimum requirements adopted for the promotion of the General Plan to achieve the purposes set forth in Section 10-10.20.020 (Purpose of Zoning Code).

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### **10-20.20.020 Administrative Hearing Officer**

[Reserved for future use]

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### **10-20.20.030 Board of Adjustment**

The powers and duties of the Board of Adjustment are established in City Code Title 2, Chapter 2-10 (Board of Adjustment).

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### **10-20.20.040 Council**

For the purposes of this Zoning Code, the Council shall have the power to hear; decide; review and approve, approve with conditions, continue, or deny; designate; and/or establish the following:

- A. The General Plan and amendments thereto, specific plans, and such other plans as it may deem necessary and appropriate;
- B. Appeals as authorized by Division 10-20.80 (Procedures for Appeals);

- C. Amendments to the Zoning Map and amendments to the text of this Zoning Code in compliance with the provisions of Division 10-20.50 (Amendments to the Zoning Code Text and the Zoning Map);
- D. Development agreements in compliance with Division 10-20.40.060 (Development Agreements) and A.R.S. § 9-500.05;
- E. Landmarks, Historic Properties and Historic Districts in compliance with the provisions of Division 10-30.30 (Heritage Preservation);
- F. Annexation of property and Coconino County rights-of-way and roadways in compliance with the provisions of Division 10-20.90 (Annexations);
- G. Schedule of fees and charges for the various applications and services provided, as approved by resolution, in compliance with this Zoning Code;
- H. The Council may take such other action as it may deem desirable and necessary to implement the provisions of these regulations and the General Plan; and
- I. To act as the Board of Adjustment upon majority vote of the City Council when a quorum of the Board of Adjustment cannot be achieved due to absence or disqualification.

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**10-20.20.050     Heritage Preservation Commission**

The powers and duties of the Heritage Preservation Commission are established in City Code Title 2, Chapter 2-19 (Heritage Preservation Commission).

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**10-20.20.060     Historic Preservation Officer**

The Historic Preservation Officer has the following powers and duties:

- A. Develop and direct all heritage preservation projects, activities, and investigations;
- B. Conduct an ongoing survey(s) to identify objects, structures, natural features, sites, places, and areas within the City having historic, architectural, archaeological, cultural or aesthetic significance for the nation, region, State, or City;
- C. Keep and maintain the Flagstaff Register of Historic Places;
- D. Provide technical assistance and make professional recommendations on preservation matters that are brought to the Heritage Preservation Commission, other commissions, or the Council;

- E. Make recommendations to the Heritage Preservation Commission on the designation of cultural resources as Landmarks or as Historic Districts;
- F. Assist the Director with all matters pertaining to heritage preservation;
- G. Serve as liaison between the City and the State Historic Preservation Officer and other government and non-governmental agencies in all matters pertaining to heritage preservation; and,
- H. Serve as liaison between the Heritage Preservation Commission and the public, property owners, other City staff, the Council, and other government and non-governmental agencies in all matters pertaining to heritage preservation.

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**10-20.20.070    Planning Commission**

The powers and duties of the Planning Commission are established in City Code Title 2, Chapter 2-01 (Planning and Zoning Commission).

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**10-20.20.080    Planning Director**

The Planning Director's (Director's) duty is to carry out the intent of the General Plan and Zoning Code and to serve as the head of the Planning and Development Services Section of the Community Development Division, the planning agency in compliance with A.R.S. § 9-461.01.

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**10-20.20.090    Zoning Code Administrator**

The Zoning Code Administrator's duty is to interpret, administer, and enforce the provisions of this Zoning Code, the Subdivision and Land Split Regulations (City Code Title 11), and the related policies established by the Council to members of the public, City departments, and other branches of government in compliance with A.R.S. § 9.462.05. The Zoning Code Administrator is a member of the Planning and Development Services Section appointed by the Director. The Director or the Zoning Administrator may delegate to other City staff those powers and duties assigned to the Zoning Administrator.

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## Division 10-20.30: Common Procedures

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### Sections:

10-20.30.010	Purpose
10-20.30.020	Application Process
10-20.30.030	Fees
10-20.30.040	Pre-Application Review by Director
10-20.30.050	Concept Plan Review
10-20.30.060	Neighborhood Meeting
10-20.30.070	Additional Requirements for Citizen Outreach
10-20.30.080	Notice of Public Hearings
10-20.30.090	Findings Required
10-20.30.100	Final Decisions
10-20.30.110	Effect of Denials
10-20.30.120	Administrative Procedures

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### **10-20.30.010 Purpose**

The purpose of this Division is to set forth common procedures and requirements for the preparation, filing, and processing of development or site plan review applications required by this Zoning Code. The development review process is designed to provide a consistent and efficient method for the City to implement its General Plan and other adopted goals, policies and standards.

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### **10-20.30.020 Application Process**

#### **A. Application Submittals**

1. All applications for development approval shall be submitted to the Director on a City application form, accompanied by applicable fees, deposits, and other materials required by this Zoning Code and Community Development Division handouts.
2. Only the following persons or entities may submit an application:
  - a. The owner of the property;
  - b. An authorized agent of the owner;
  - c. A person acting in compliance with a purchase contract or exclusive option to purchase the property; or,
  - d. The Director on behalf of the Council.

**B. Application Content**

1. The Director shall specify the form and content of applications required by this Zoning Code. The Director may require supporting materials as part of the application including, but not limited to, legal descriptions, statements, photographs, plans, drawings, renderings, models, material samples, and other items necessary to describe the existing situation and the proposed development. The applicant is responsible for the accuracy and completeness of all information submitted to the City. The Director may waive the submission of specific material or information upon a finding that it is not needed to reach a decision on the application.
2. Prior to and as a condition of final approval of a change to any land use regulation or standard, Zoning Map amendment, or a Conditional Use Permit, the Director may require the owner to execute a Waiver of Claims for Diminution in Value (City Code Title 1 (Administration), Chapter 1-17 (City Finances)) in compliance with the A.R.S. § 12-1131 through 12-1138.

**C. Determination of Administrative Completeness and Substantive Review**

1. After receiving an application accompanied by the required fee (See Appendix 2 (Planning Fee Schedule)), all applications shall be reviewed in compliance with the time frames for administrative and substantive review on file with the Planning Section, as required by A.R.S. § 9-832 et.seq.
2. In order to determine if the application is complete within the established administrative review period, the Director may submit the application to other City divisions, as appropriate. The Director shall notify the applicant if the application is complete and has been accepted for processing. If the application is incomplete, the Director shall identify the items that must be filed to complete the application and return it to the applicant. No application will be reviewed and no public hearings will be scheduled until an application is determined to be complete. An applicant may appeal the Director's determination of completeness to the Community Development Director (See Section 10-20.80 (Procedures for Appeals)).
3. When an application has been determined to be complete, it will be considered for substantive review within the established substantive review period for the application. The Director may submit the application to other affected City divisions which shall determine whether the application complies with pertinent standards and regulations. An applicant may appeal a determination of the Director to the Board of Adjustment as set forth in Section 10-20.80.020 (Appeals of Interpretations by the Zoning Code Administrator and Director).

**D. Concurrent Applications**

1. If more than one development approval is required, for example a Conditional Use Permit and a Site Plan Review, the Director may require, or an applicant may request that the approvals be considered jointly.

Depending on the level of approvals required, one decision may need to be made subject to receipt of approval from another Review Authority.

2. If a General Plan or Zoning Map amendment is required, a Variance, Conditional Use Permit, or other development approval may not be granted prior to the General Plan or Zoning Map amendment approval (Division 10-20.50 (Amendments to the Zoning Code Text and the Zoning Map)). However, such development applications may be discussed at the same meeting with a related General Plan or Zoning Map amendment by the relevant Review Authority.
3. In the event that a Major General Plan amendment and a Zoning Map amendment are required for the same property(ies), they shall be considered separately, with the Major General Plan amendment being processed and approved before the Zoning Map amendment (Division 10-20.50 (Amendments to the Zoning Code Text and the Zoning Map)).
4. If a Minor General Plan amendment and a Zoning Map amendment (Division 10-20.50 (Amendments to the Zoning Code Text and the Zoning Map)) are required for the same property(ies), the Planning Commission may hear both requests at the same public hearing. Likewise, the Council may consider both requests together at its public hearing.

**E. Availability of Materials**

Applications and supporting materials are public records pursuant to A.R.S. § 39-121 through 39-128. Public records may be reviewed and copied upon request during normal business hours, unless protected from disclosure. The applicant shall clearly label each page of copyrighted or trademarked materials (e.g., ©, ®, TM) and such materials will be available for public inspection, but copyrighted materials will not be copied.

(Section 10-20.30.020 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.30.030 Fees**

**A. Planning Fee Schedule**

A schedule of planning fees shall be maintained by the Director and made available to the public and can be found in Appendix 2 (Planning Fee Schedule) of this Zoning Code.

**B. Required Fees**

All applications required by this Zoning Code shall be accompanied by the required fees set by resolution of the Council. Applications shall not be accepted without payment of the required fee, including as applicable Development Fees, Stormwater Management Fees, Water Capacity and Connection Fees, and other required fees.

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**10-20.30.040 Pre-Application Review by Director****A. Pre-Application Review**

1. A Pre-Application Review is an optional process to provide a general overview of a proposed development's compliance with this Zoning Code and other applicable policies and regulations. This review occurs prior to the submittal for Concept Plan Review (Section 10-20.30.050). An applicant requesting any development approval may request a Pre-Application Review.
2. The purpose of a Pre-Application Review is generally to:
  - a. Familiarize the Director and other City staff, as may be applicable, with the development proposal;
  - b. Determine application requirements and familiarize the applicant with the review process and procedures;
  - c. Identify any potential problems as early in the process as possible; and
  - d. Identify land use and development policies which may affect the development proposal.
3. Failure by the Director or staff to identify all required studies or all applicable requirements shall not constitute a waiver of those studies or requirements.

**B. Application Requirements**

An application for a Pre-Application Review shall be submitted on a form prescribed by the City in compliance with Section 10-20.30.020 (Application Process).

**C. Pre-Application Review Meeting**

After reviewing the application, the Director or his or her designee will meet with the applicant or representative. Neither the Pre-Application Review nor the provision of information by the Director or his or her designee and the discussion of City policies shall be construed as either a recommendation for approval or denial of the application or development. No formal action is taken by the Director or his or her designee at a Pre-Application Review meeting. Following the meeting, the Director shall provide the applicant with a written summary of comments and place a copy of the comments in the Pre-Application Review log.

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**10-20.30.050 Concept Plan Review****A. Purpose**

Concept Plan Review is an informal review to ensure that the applicant is



aware of the procedures and substantive requirements of the City and to identify any potential problems or concerns prior to submitting for Site Plan Review and Approval (Section 10-20.40.140).

**B. Applicability**

Concept Plan Review is required for the following:

1. All developments requiring Site Plan Review and Approval (Section 10-20.40.140);
2. Any change of use that triggers an increase in required parking;
3. A proposed duplex;
4. Non-structural remodeling of an exterior façade; and
5. A proposed single-family residence located on a parcel that is not part of a platted subdivision.

**C. Application for Concept Plan Review**

**1. Application Requirements**

An application for a Concept Plan Review shall be submitted on a form prescribed by the City in compliance with Section 10-20.30.020 (Application Process), together with the information and materials requested in the Concept Plan Review application and the required fee established in Appendix 2 (Planning Fee Schedule).

**2. Application Review**

Upon receipt of an application, the Director shall refer the Concept Plan application to any applicable departments or agencies, which shall review the application for compliance with City standards and regulations. The Director, in compliance with the Review Schedule on file with the Planning Section, shall provide conditions and comments to the applicant. Major developments (i.e. those over 20,000 square feet in gross floor area or over 50 dwelling units) may be scheduled for a longer review period.

**3. Effect of Review**

- a. Upon receipt of conditions and comments, an applicant may request a meeting with the Director or his or her designee to discuss the development requirements and how to proceed with the application.
- b. Neither the Concept Plan Review nor the provision of information by the Director or his or her designee and the discussion of City policies shall be construed as either a recommendation for approval or denial of the application or development. No formal action is taken by the Director during the Concept Plan Review.

- c. Failure by the Director or staff to identify all required studies or all applicable requirements shall not constitute a waiver of those studies or requirements.
- 4. Completion of Concept Plan Review allows an applicant to submit an application for Site Plan Review and Approval (Section 10-20.40.140). If the Concept Plan application is deemed by the Director to contain sufficient information, the Director may move the concept plan to Site Plan Review and Approval (Section 10-20.40.140) or to the next stage in the development review process.
- D. If applying for Site Plan Review, it is the responsibility of an applicant to provide the required revisions and information relevant to the development proposal on the application for Site Plan Review and Approval (Section 10-20.40.140). The Director may also recommend that the applicant resubmit for a second Concept Plan Review at no additional cost to the applicant. An applicant may also choose to withdraw their application. However, a third required submission requires a new fee as established in Appendix 2 (Planning Fee Schedule).

(Section 10-20.30.050 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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## **10-20.30.060 Neighborhood Meeting**

### **A. Neighborhood Meeting Required**

- 1. Applicants for a General Plan amendment, Specific Plan amendment, Zoning Map amendments, Conditional Use Permit, annexation or change of use within the PF (Public Facility) Zone shall schedule and conduct at least two neighborhood meetings in compliance with this Section. The applicant is responsible for all costs associated with the neighborhood meetings.
- 2. The Director may waive the requirement for neighborhood meetings if it can be demonstrated that there are a limited number of property owners adjacent to the subject property and that other techniques for informing them of the application would be more effective, such as direct mailing with information on the application or one-on-one meetings with affected property owners.

### **B. Purpose of Neighborhood Meeting**

The purpose of the neighborhood meeting is to:

- 1. Encourage applicants to allow for informed decision making through the dissemination of proposals and alternatives;
- 2. Ensure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the community;

3. Ensure that the citizens and property owners have an adequate opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early stage of the process; and,
4. Facilitate ongoing communication between the applicant, potentially affected citizens and adjacent property owners, City staff and elected officials throughout the application review process.

#### **C. Neighborhood Meeting Planning**

1. The applicant's neighborhood meetings shall be scheduled after the Pre-Application Review (Section 10-20.30.040) meeting with the Director, but prior to Site Plan Review (Section 10-20.40.140) or Planning Commission consideration of a Zoning Map amendment (Division 10-20.50).
2. A plan for how the applicant intends to conduct the neighborhood meetings shall be submitted to and approved by the Director in compliance with the Review Schedule on file with the Planning Section. A charrette is recommended with all General Plan amendments and is required for all applications for a Traditional Neighborhood Community Plan (Division 10-30.80). The neighborhood meeting plan shall include the following information:
  - a. Property owners, citizens, jurisdictions and public agencies within 300 feet of the development or that may be affected by the application. The Director may expand the required notification area as stipulated in Paragraph D.3 below;
  - b. Proposed notification methods (e.g. mail, e-mail, newspaper, or posting of the subject property) for persons and organizations identified in Subsection a, above;
  - c. Form, structure, and agenda of the meeting (e.g. town meeting, workshop, charrette, or other appropriate public outreach technique);
  - d. Opportunities for those potentially affected parties to discuss and provide input on the applicant's proposal;
  - e. Location, date and time of the neighborhood meeting; and
  - f. Methods to keep the Director informed of the status and results of the neighborhood meeting.

#### **D. Neighborhood Meeting Notification**

In compliance with the Review Schedule on file with the Planning Section, the applicant shall:

1. Create a notice that sets forth the purpose and substance of the proposed application, and the time, date and place of the neighborhood meeting;
2. Submit a copy of the notice to the Director;

3. Notify by first-class mail all property owners of record within 300 feet of the subject property. Notification within a larger area may be required when the General Plan or other applicable adopted City policy (See Section 10-20.30.070 (Additional Requirements for Citizen Outreach) for example) stipulates notification within a larger area. The Director may also expand the notification area based on the location and context of the subject property if it is determined that the potential impact of the development extends beyond the required notification boundary;
4. Notify by first-class mail to the situs or actual address of all tenants and residents living on the subject property;
5. Notify by first-class mail all Homeowners Associations (HOAs) that govern land within 1,000 feet of the subject property as well as all persons or groups whose names are on the Registry of Persons and Groups described in Section 10-20.30.080.B who are interested in receiving such notice. If it is determined that the potential impact of the development extends beyond the required notification boundary, the Director may expand the notification area; and
6. Install a minimum of one sign that is at least four feet by four feet in area on the property in a location or locations clearly visible from a public right-of-way and to adjacent residents setting forth the purpose, time, date, and place of the neighborhood meeting, with an attached information tube containing copies of the meeting notice. This sign shall be installed a minimum of 10 days prior to the neighborhood meeting.

**E. City Staff Involvement**

City staff may attend the neighborhood meetings. The role of City staff will be limited to discussing the review process for the development and explaining the opportunities for the public to be engaged in the review process.

**F. Record of Proceedings**

The applicant shall create a written summary of the meetings, which shall be submitted with the next formal submission to the Director. This written summary will be attached to the Director's report to the Planning Commission and Council. The applicant shall also send a copy of the written summary to all the people who recorded their names on the sign-in sheet for the meeting. At a minimum, the report shall include the following information:

1. Certification, on a form established by the Director, that the meeting was noticed and conducted in compliance with requirements of this Section;
2. Details of techniques the applicant used to involve the public, including:
  - a. Dates and locations of neighborhood meetings;
  - b. Copies of letters, notices, newsletters and other correspondence, including dates and numbers of mailings or deliveries;

- c. A copy of the mailing list, and a summary of where residents, property owners, and potentially affected citizens receiving notices, newsletters, or other written materials were located;
  - d. The number and names of people that participated in the process based on the sign-in sheet for the meeting; and
  - e. A dated photograph of the sign installed in compliance with Subsection D.6, above.
3. A summary of concerns, issues and problems expressed during the neighborhood meeting, including:
- a. The substance of the concerns, issues, and problems; and
  - b. The applicant's response to the comments received at the public meeting. The applicant's responses shall be included on the site plan, illustrative plan, other planning document(s), and/or in an associated report. If public comments are not included in any of these documents, an explanation why they were not included must be provided.

**G. Request to Waive the Second or Additional Neighborhood Meetings**

An applicant may submit a written request to the Director to waive the requirement for the second or any additional neighborhood meetings if either no substantive issues were identified by the meeting participants, including but not limited to, density, compatibility, traffic or stormwater issues, or there was minimal participation at the initial neighborhood meeting as documented in the record of proceedings described in Subsection F. If the application is substantially modified from what was presented at the initial neighborhood meeting, the Director may require that a second or additional neighborhood meetings in compliance with this Section be held to present the modified application.

**H. Other Required Meetings**

For developments where the applicant is not otherwise required to conduct a neighborhood meeting, the Director may require that a neighborhood meeting be held if a determination is made that the development may substantially impact adjacent neighborhoods, schools, parks, or existing open space.

(Section 10-20.30.060 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.30.070 Additional Requirements for Citizen Outreach**

**A. Applicability**

This Section shall apply, in addition to those requirements established in Section 10-20.30.060 (Neighborhood Meeting), to the following developments for which a Zoning Map or General Plan amendment is required:

- 1. New single-family or multi-family residential developments that exceed 300 units; or

2. New commercial, industrial, and public facility developments that exceed 20 acres or 100,000 square feet of gross floor area.

**B. Additional Requirements**

The following additional requirements and procedures apply to those Zoning Map and General Plan amendments specified in Subsection A:

**1. Step One – Neighborhood Meeting**

- a. The applicant shall host a neighborhood meeting as described in Section 10-20.30.060 (Neighborhood Meeting).
- b. The following additional requirements shall apply to the applicant's neighborhood meeting. Prior to the neighborhood meeting and in compliance with the Review Schedule on file with the Planning Section, the applicant shall:
  - (1) Provide the Director with information regarding the neighborhood meeting for posting on the City website;
  - (2) Post information regarding the neighborhood meeting on the applicant or applicant's agent's web site, if such web site exists; and
  - (3) Notify by first-class mail all property owners of record within 600 feet of the subject property.
- c. As an option, the applicant may also place advertisements for the neighborhood meeting on local radio or TV stations.

**2. Step Two – Additional Planning Commission Public Hearing**

- a. The Director shall schedule no less than two public hearings with the Planning Commission to provide additional opportunities for interested members of the public to be informed of and provide comments on the new development proposals described in Subsection A.
- b. The public hearings shall be noticed in compliance with Section 10-20.30.080 (Notice of Public Hearings).
- c. The additional Planning Commission public hearing shall be held at the next regularly scheduled meeting of the Planning Commission.

**C. Charrette for a Traditional Neighborhood Community Plan**

When an applicant has hosted a charrette as required for a proposed Traditional Neighborhood Community Plan (Division 10-30.80) as part of a General Plan amendment, a second charrette as part of the Zoning Map amendment application is not required. The Director may require a second neighborhood meeting as described in Section 10-20.30.060 (Neighborhood Meeting).

(Section 10-20.30.070 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.30.080 Notice of Public Hearings**

Prior to consideration of any action for a General Plan amendment, specific plan amendment, Zoning Code text amendment, Zoning Map amendment, Conditional Use Permit, preliminary subdivision plat, Variance, or Appeal heard by the Board of Adjustment, or change of use within the PF (Public Facility) Zone, notice shall be given in compliance with the requirements of this Section. In those cases where a public hearing is required as part of the approval process, no hearing shall be scheduled until the applicant has paid the required fee(s). Fees are listed in Appendix 2 (Planning Fee Schedule). All of the following applicable provisions shall be met:

**A. Notice Requirements**

Any changes to State Law notice requirements shall control over this provision in the manner of providing notice.

**1. Contents**

Every published, posted and mailed notice of public hearing shall include:

- a. The date, time, location and purpose of the hearing;
- b. The name of the body conducting the hearing, and a telephone number to receive additional information;
- c. The location and times at which the complete application and development file may be viewed by the public;
- d. The address or location of the subject property;
- e. A general description of the proposed development or action and the property included in the application;
- f. A statement that any interested person or authorized agent may appear and be heard;
- g. A statement describing how and when to submit written comments;
- h. The existing zone classification; and
- i. The word "Zoning," if applicable.

**2. Manner of Posting**

- a. Notices of public hearings for requests to amend the Zoning Map shall be posted on the subject property and printed so that the following are visible from a distance of 100 feet: the word “zoning”; the existing zone; the proposed zone; and the date, time and place of the hearing.
- b. Notices of public hearings for all other applications such as General Plan amendments, Conditional Use Permits, or Board of Adjustment hearings shall be posted on the subject property and printed so that the date, time and place of the hearing is visible from a distance of 100 feet.

**3. Manner of Notification**

Notices of required public hearings shall be sent by first-class mail to the following persons:

- a. Each real property owner (if different from the applicant) as shown on the last assessment of the property, of any land within the areas subject to the application for which the public hearing is required.
- b. Each real property owner (if different from the applicant) as shown on the last assessment of the property of any land which is located within 300 feet of the property subject to the application for which the public hearing is required. The Director may expand the notification area based on the location and context of the subject property if it is determined that the potential impact of the development extends beyond the required notification boundary.
- c. The situs or actual address of all tenants and residents living on the subject property.
- d. All local government agencies which have reviewed and commented on the proposed development or Zoning Map amendment or which abut the subject property.

**4. Failure to Receive Notice**

Notwithstanding the notice requirements set forth in Subsections 2 and 3 above, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the amendments for which the notice was given.

**5. Responsibility for Providing Notice**

- a. The Director shall be responsible for placing the public hearing notices required by this Section in a newspaper of general circulation within the City.
- b. The applicant shall post the notice(s) as required by this Section on the subject property. The applicant is required to maintain the posting and remove the sign within seven days after the public hearing and final action. Failure to remove the sign may result in the City



removing the sign and charging the applicant for costs incurred. The applicant shall submit a notarized Affidavit of Posting and photographs of the signs posted on the subject property to the Director no less than 15 days prior to the public hearing date.

- c. If notice is required to be provided by mail, the applicant is responsible for establishing a list of names and addresses of property owners in compliance with the requirements of Section 10-20.30.060.D.3 and D.5, as well as the names and situs addresses of all tenants and residents living on the subject property in compliance with this Section. The applicant shall mail a public hearing notice to each of the property owners on the list referenced above no later than 15 days prior to the public hearing date. A notarized copy of the mailing list shall be submitted to the Director prior to or on the fifteenth day prior to the public hearing date.
- d. Failure to provide the documentation described in Subparagraphs b. and c. above will result in continuance of the case to the next available public hearing date.

**6. Time of Notice**

All required notices shall be posted or published within a timeframe prior to the public hearing determined in compliance with State law as well as the Review Schedule on file with the Planning Section.

**B. Registry of Interested Persons or Groups**

Any interested persons or groups may contact the Planning Section to register their names, addresses and other contact information so that they can be notified of all public meetings and public hearings of the Board of Adjustment, Planning Commission and/or Council.

**C. Additional Noticing Requirements**

- 1. In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided as described in Subsections 2 and 3 below:
  - a. A 10 percent or more increase or decrease in the number of square feet or units that may be developed.
  - b. A 10 percent or more increase or reduction in the allowable height of buildings.
  - c. An increase or reduction in the allowable number of stories of buildings.
  - d. A 10 percent or more increase or decrease in setback or open space requirements.
  - e. An increase or reduction in permitted uses.

2. Notice shall be sent to all persons or groups whose names are on the Registry of Persons and Groups described in paragraph B above who are interested in receiving such notice.
3. Notice shall be provided to real property owners in compliance with at least one of the following notification procedures:
  - a. Notice shall be sent by first class mail to each real property owner, as shown on the last assessment, whose real property would be directly governed by the changes.
  - b. Notice shall be included with water bills or other City mass mailings.
  - c. Notice shall be published in a newspaper of general circulation published or circulated in the City in the form of a "display ad" covering not less than one eighth of a full page.
4. In proceedings where additional requirements for citizen outreach are required as provided in Section 10-20.30.070 (Additional Requirements for Citizen Outreach), full compliance with the notification requirements of that Section is required.

(Section 10-20.30.080 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.30.090 Findings Required**

When making a decision to approve, approve with modifications and/or conditions, revoke or deny any Conditional Use Permit, Variance, Site Plan, or preliminary subdivision plat, the decision-making body shall make findings of fact required by this Section. Findings shall be based upon consideration of the application, plans, testimony, reports and other materials that constitute the record and shall be in writing or included in the minutes. The findings shall be set forth in the Notice of Decision that the Director shall issue following a decision.

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**10-20.30.100 Final Decisions****A. Time of Decision**

1. A final decision shall be deemed to have been made at the time action is taken by the Council or Board of Adjustment.
2. A final decision of the Planning Commission shall be deemed to be made 10 days following the Commission's action on a Conditional Use Permit.
3. A final decision shall be deemed to have been made on the date of issuance of a Notice of Decision by the Zoning Code Administrator or Director.

**B. Notice of Decision**

When a final decision is made by Notice of Decision, the decision made and the findings that were the basis for the decision shall be documented in writing and sent via first class mail to the applicant at the mailing address stated in the application and to any other person or entity requesting such notification in writing.

(Section 10-20.30.100 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.30.110 Effect of Denials**

A new application concerning property for which a previous application has been denied (i.e. it may be the same as the previous application or it may be a different proposal) may only be considered when:

- A. The application does not involve the same request for Conditional Use Permit, Variance, Zone Change, Annexation, or General Plan amendment, or allege the same misinterpretation or hardships as the previous application;
- B. The subsequent application involves a development proposal which is, in the opinion of the Director, materially different from prior proposals, or is responsive to negative findings set forth in the denial of the prior application;
- C. A substantial change in the use of adjacent property has occurred since the previous application was denied; or
- D. A period of not less than one year has passed since the previous application was denied and all appeals provided by the City have been exhausted.

(Section 10-20.30.110 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.30.120 Administrative Procedures**

Any person may examine an application and materials submitted in support of or in opposition to an application in the Community Development Division's offices during normal business hours. Copies of such materials shall be made available for materials determined to be disclosable public records at a reasonable cost to be established from time to time through Council resolution. Staff reports to the Council, Planning Commission, Heritage Preservation Commission, or Board of Adjustment will be made available to the public only after they have been submitted to the Review Authority for which the report was prepared.

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## Division 10-20.40: Permits and Approvals

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### Sections:

10-20.40.010	Purpose
10-20.40.020	Avigation Easements
10-20.40.030	Building Permits and Certificates of Occupancy
10-20.40.040	Building Relocation Requests
10-20.40.050	Conditional Use Permits
10-20.40.060	Development Agreements
10-20.40.070	Home Occupation Permits
10-20.40.080	Minor Improvement Permits
10-20.40.090	Minor Modifications to Development Standards
10-20.40.100	Outdoor Lighting Permits
10-20.40.110	Parking Lot Maintenance Permits
10-20.40.120	Sign Permits – Permanent Sign Structures
10-20.40.130	Sign Permits – Temporary Signs
10-20.40.140	Site Plan Review and Approval
10-20.40.150	Temporary Use Permits
10-20.40.160	Zoning Verification

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### **10-20.40.010 Purpose**

This Division provides procedures and requirements for the preparation, filing, and processing of planning and building permits required by this Zoning Code. For Common Procedures related to these permits. See Division 10-20.30 (Common Procedures).

#### **A. General Application Requirements**

An application for a permit or other requirement described in this Division shall be submitted to the Director on a form prescribed by the City in compliance with Section 10-20.30.020 (Application Process). The application shall include the information and materials specified in the application checklist for the permit, together with the required fee established in Appendix 2 (Planning Fee Schedule).

#### **B. Review and Approval**

The Director, in compliance with the Review Schedule on file with the Planning Section, shall review the permit application and supporting documentation for compliance with the standards provided in this Zoning Code, and shall determine whether the permit may be issued or if the applicant must supply additional information to complete the permit application. If the permit application is denied, the reason shall be stated in writing.

#### **C. Effect of Approval**

The issuance of a permit or approval requirement described in this Division authorizes the holder to proceed in compliance with the terms of the permit. The applicant must follow the procedures of this Chapter for any additional applicable permits or approvals in order to complete the development and occupancy requirements for the subject property.

**D. Inspections**

All developments for which this Division requires a permit are subject to inspection to ensure compliance with the provisions of this Zoning Code.

**E. Appeals**

Any person, firm or corporation aggrieved by a decision of the Review Authority in interpreting, applying or enforcing this Division may file an appeal in compliance with the appeal provisions established in Section 10-20.80 (Procedures for Appeals).

(Section 10-20.40.010 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.40.020 Avigation Easements****A. Purpose**

The purpose of the Avigation Area Zone and Avigation Easement Policy is to preserve the public investment in the Pulliam Airport facility and operations including, but not limited to, air transportation and emergency air services, by protecting the airport from continued encroachment from development in areas surrounding the airport.

**B. Avigation Area Zone**

The Avigation Area Zone shall include all real property located within the approximately one square mile radius from all sides of the Airport property inclusive of all land as shown on Airport Avigation Area Map (See Section 10-90.30.010). The scope of the Avigation Area Zone is reasonable in light of the predictable wind conditions existing in the Flagstaff area and in light of the configuration of the conical surface approved by the Federal Aviation Administration for the airport. The owner(s) of property located within the Avigation Area Zone shall dedicate an Avigation Easement to the City prior to the finalization of one or more of the following events:

1. Annexation into the City;
2. Approval of an applicant-initiated General Plan Amendment, Zoning Map amendment, subdivision plat or replat, lot split, Conditional Use Permit or Variance;
3. Issuance of a Building Permit for a residential dwelling unit wherein the proposed construction activity is equal to or in excess of one of the following conditions:
  - a. 50 percent of the existing square footage of the dwelling unit; or,
  - b. 50 percent of the appraised value of the dwelling unit as set forth in the records of the Coconino County Assessor's Office.

**C. Avigation Easement Requirements**

The Avigation Easement shall include air space from 350 feet above the surface level of the properties to an infinite height above the properties. The

Avigation Easement shall be in a form as approved by the City Attorney's Office.

**D. Appeals**

Any person, firm, or corporation aggrieved by a decision of the Review Authority in interpreting, applying or enforcing this Division, may file an appeal in compliance with the appeal provisions established in Section 10-20.80 (Procedures for Appeals).

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**10-20.40.030 Building Permits and Certificates of Occupancy**

**A. Purpose**

This Section provides requirements and procedures for the issuance of Building Permits and Certificates of Occupancy to ensure that new development is in conformance with this Zoning Code.

**B. Permits Required**

1. No development shall be permitted or no new use established until the applicant or an authorized representative has obtained a Building Permit and/or Certificate of Occupancy as required by this Division.
2. No Building Permit shall be issued unless the application for development approval complies with the provisions of this Zoning Code, other applicable City codes (including, for example, provision for street and utility rights-of-way and easements), and specific prior approvals applicable to the proposed development, including approved site plans, Conditional Use Permits, or Zoning Map amendments.

**C. Effect of Certificate of Occupancy**

1. No building or structure shall be occupied or used until the Building Official has issued a Certificate of Occupancy and has determined that the building has been constructed and all on- and off-site improvements have been developed in compliance with the provisions of this Zoning Code and any other applicable City codes.
2. If the structure or use does not comply with the requirements of this Zoning Code or with any other applicable City codes and ordinances, the Director shall not issue a Certificate of Occupancy, unless it is determined that a Conditional Certificate of Occupancy may be issued (Subsection D).

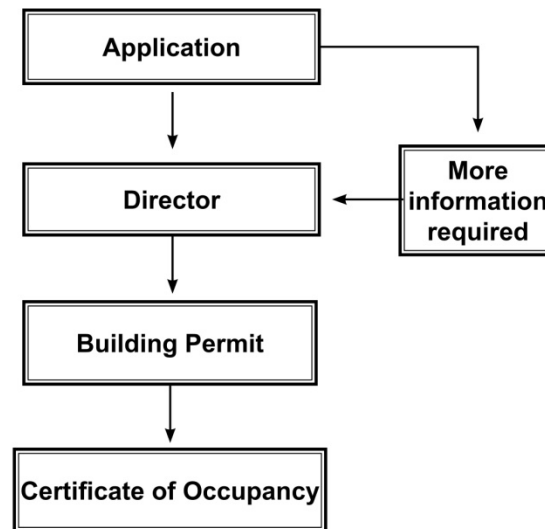
**D. Conditional Certificate of Occupancy**

1. A Conditional Certificate of Occupancy may be issued by the Director provided that:
  - a. The applicant demonstrates that the incomplete components of the building and site (such as landscaping or private or public infrastructure) will not affect the public health, safety and general welfare;

- b. The applicant demonstrates that completion is impractical at the time the Certificate of Occupancy is sought due to weather or other conditions as requested by the applicant and as approved by the Director; and
  - c. The applicant secures the completion of the construction with appropriate assurances in a form acceptable to the Director and the City Attorney, and in an amount sufficient to complete the construction, as determined by the applicant and as approved by the Director.
- 2. Requests for Conditional Certificates of Occupancy shall contain:
  - a. A proposed agreement between the City and the applicant in which the applicant promises to complete the specified on-site improvements. The agreement shall have a maximum 12-month term and shall be non-renewable;
  - b. The reason for the request;
  - c. The expected completion date; and
  - d. Financial assurance acceptable to the City, the term of which shall exceed the term of the agreement by no less than 60 days.
- E. Figure A (Building Permits and Certificates of Occupancy) summarizes the procedure for obtaining Building Permits and Certificates of Occupancy.

(Section 10-20.40.030 amended by Ord. 2016-07, adopted Feb. 16, 2016)



**Notes:**

1. Action and public hearings by the Director, Planning Commission, or City Council will be completed in accordance with the review schedule on file with the Community Development Department.
2. No Building Permit shall be issued unless the application for development approval complies with the provisions of this Zoning Code, other applicable City Codes (including, for example, provisions for street and utility rights-of-way and easements), and specific prior approvals applicable to the proposed development, including approved site plans, Conditional Use Permits, or Zoning Map amendments.

Figure A. Building Permits and Certificates of Occupancy

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**10-20.40.040 Building Relocation Requests****A. Purpose**

The purpose of this Section is to provide a procedure to relocate an existing structure to another site.

**B. Review Authority and Findings**

The Director shall review requests for Building Relocation and approve, with or without conditions, or deny the request. When considering the application, the Director shall make the following findings:

1. That the structure is in conformity with the type and quality of buildings existing in the receiving area for a distance of at least 200 feet. If there is vacant property, or if the surrounding area is in transition, the Director shall take into consideration the type of structures and uses that will be located there in the future;
2. That the proposed relocation will not conflict with any requirements of this Zoning Code;
3. That the structure is certified to be free of pest infestation by a qualified pest-exterminating firm;
4. That the proposed relocation will be in no way detrimental to persons or properties or to the environment of the relocation area;
5. That the proposed relocation will not adversely affect any proposed street or other improvement in the area;
6. That the proposed relocation is consistent with the General Plan; and,
7. That the proposed relocation will not result in the violation of any law, ordinance or regulation.

**C. Temporary Storage**

At the applicant's request, the Director may approve the temporary storage of a building at another location while the permanent site is being prepared, using one of the following locations:

1. A storage yard approved in compliance with these regulations; or
2. A vacant site near the proposed permanent site, subsequent to the issuance of a Temporary Use Permit.

**D. Moving Permit Required**

The applicant shall also obtain a Moving Permit to move the structure over City streets. The application shall be accompanied by a cash deposit or bond sufficient to cover the cost of repair of any possible damage to streets, sidewalks, utilities and other City facilities. The amount of the deposit or bond shall be established by the City Engineer.

**E. Vacated Site**

If the site from which the structure is moved is within the City, the site shall be cleaned and all trash, debris, and construction materials removed prior to the issuance of the Certificate of Occupancy for the relocated structure.

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**10-20.40.050 Conditional Use Permits****A. Purpose**

The purpose of Conditional Use Permits is to provide a process for reviewing uses and activities that are permitted in an applicable zone, but that require more discretionary review and the possible imposition of conditions to mitigate the effects of the proposed use.

**B. Applicability**

Chapter 10-40 (Specific to Zones) identifies land uses and activities that require a Conditional Use Permit.

**C. Application Requirements****1. Pre-application Review**

An optional pre-application review with the Director is recommended for all applications for a Conditional Use Permit in compliance with the procedures set forth in Section 10-20.30.040 (Pre-application Review by Director).

**2. Application Requirements**

An application for a Conditional Use Permit shall be submitted on a form prescribed by the City in compliance with Section 10-20.30.020 (Application Process), together with the information and materials requested in the application checklist and the required fee established in Appendix 2 (Planning Fee Schedule).

**3. Responsibility**

It is the responsibility of the applicant to provide support for the findings required by Subsection E, below.

**4. Effective Date**

The Conditional Use Permit shall have an effective date of 10 days following the date of approval by the Planning Commission, unless the Planning Commission's action is appealed in compliance with Section 10-20.80.030.F.

**D. Public Hearings and Procedures**

The Planning Commission shall hold a public hearing on the application for a Conditional Use Permit and shall, at the conclusion of the public hearing, approve, with or without conditions, or deny the application in compliance with the requirements for conditional uses and other applicable requirements of this Zoning Code. The public hearing shall be noticed in compliance with Section 10-20.30.080 (Notice of Public Hearings).

**E. Findings**

The Planning Commission may approve the Conditional Use Permit only after making the following findings:

1. That the conditional use is consistent with the objectives of this Zoning Code and the purpose of the zone in which the site is located.
2. That granting the conditional use will not be detrimental to the public health, safety or welfare. The factors to be considered in making this finding shall include, but not be limited to:
  - a. Property damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination;
  - b. Hazard to persons or property from possible explosion, contamination, fire or flood; and,
  - c. Impact on surrounding areas arising from unusual volume or character of traffic.
3. That the characteristics of the conditional use as proposed and as it may be conditioned are reasonably compatible with the types of uses permitted in the surrounding area. The Conditional Use Permit shall be issued only when the Planning Commission finds that the applicant has considered and adequately addressed the following to ensure that the proposed use will be compatible with the surrounding area:
  - a. Access, traffic, and pedestrian, bicycle and vehicular circulation;
  - b. Adequacy of site and open space provisions, including resource protection standards, where applicable;
  - c. Noise, light, visual and other pollutants;
  - d. Proposed style and siting of structure(s), and relationship to the surrounding neighborhood;
  - e. Landscaping and screening provisions, including additional landscaping in excess of otherwise applicable minimum requirements;
  - f. Impact on public utilities;
  - g. Signage and outdoor lighting;
  - h. Dedication and development of streets adjoining the property; and
  - i. Impacts on historical, prehistoric or natural resources.

**F. Conditions of Approval**

1. The Planning Commission may attach conditions of approval to a Conditional Use Permit as are necessary to carry out the purposes of the General Plan, other adopted plans, and findings of Subsection E, above. Some of the conditions may include, but are not limited to: limitations on size, bulk and location; requirements for additional landscaping or buffers; provision of adequate ingress and egress; mitigation of adverse environmental impacts; and other conditions such as the duration of the permit, hours of operation and time limits on construction.
2. Conditions of approval will only be imposed if they are necessary to ensure:
  - a. The intent and purpose of this Zoning Code are met;
  - b. Compatible and complementary development of the property; and,
  - c. The provision of appropriate off-site improvements will be fulfilled.

**G. Effect of Approval**

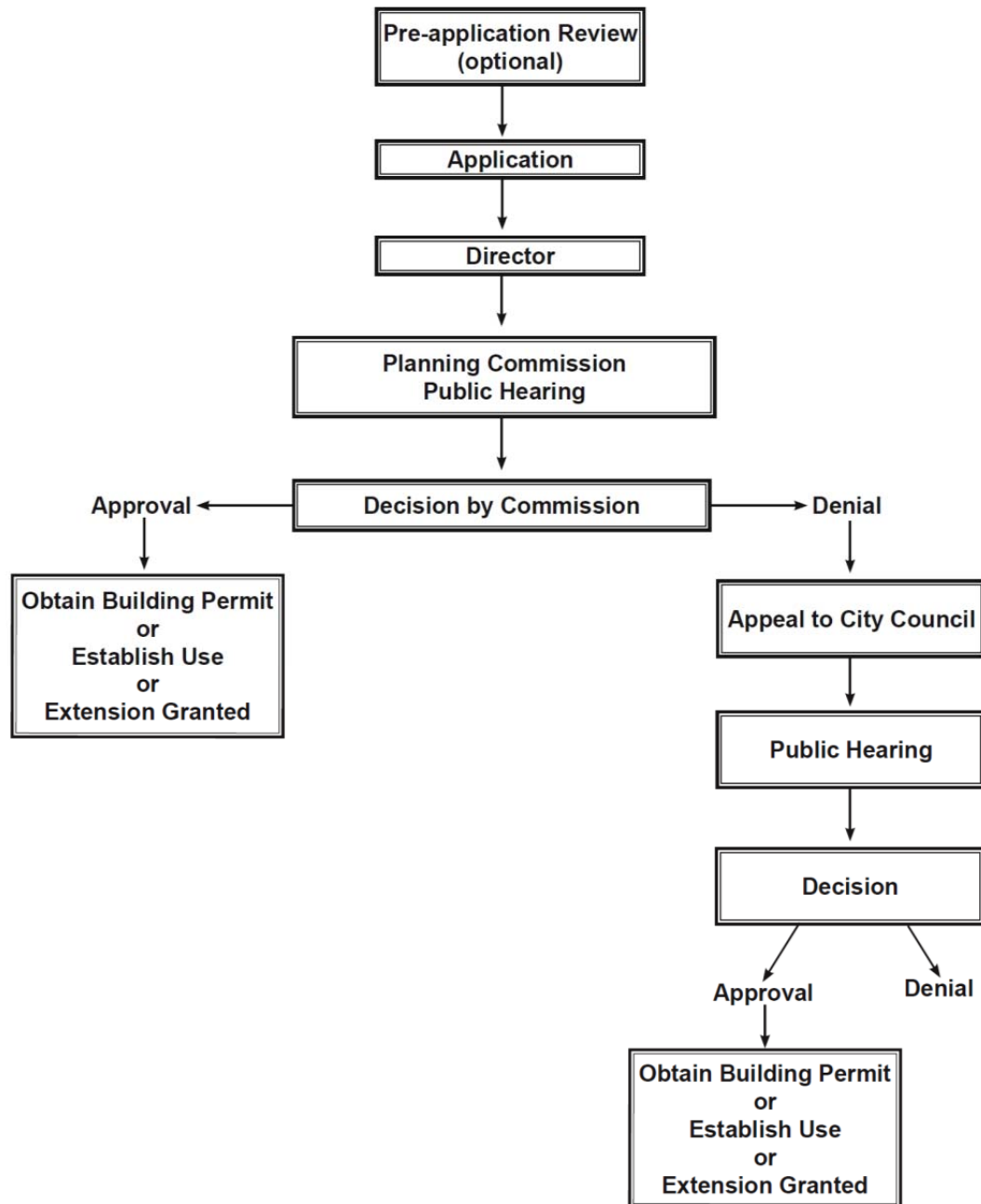
1. Issuance of a Conditional Use Permit shall be deemed to authorize only the particular use for which it is issued, and such approval shall be deemed to run with the land, except that if a Zoning Map amendment that does not allow the conditional use is processed for the site, the use will be allowed to continue only as a legal, non-conforming use subject to the terms and conditions of the Conditional Use Permit.
2. All conditions of approval shall be binding upon the applicant, their successors, and assigns; shall run with the land; shall limit and control the issuance and validity of certificates of occupancy; and shall restrict and limit the construction, location, use and maintenance of all land and structures within the development.

**H. Time Limits and Permit Implementation**

1. A Conditional Use Permit will become null and void one year after the effective date unless one of the following has occurred:
  - a. A grading permit or building permit has been issued and construction commenced and diligently pursued;
  - b. The approved use has been established; or
  - c. An extension has been granted by the Planning Commission. Such extension shall be for a maximum of 180 days, and no extension may be granted which would extend the validity of the permit more than 18 months beyond the effective date of the permit. The Planning Commission may, when granting an extension for a Conditional Use Permit, modify the original conditions or add conditions to the original Conditional Use Permit, if deemed appropriate; or,

- d. The Planning Commission has established a different expiration date for the Conditional Use Permit, such as tying it to the expiration date of a Zoning Map amendment for the same property.
  2. Development of the use shall not be carried out until the applicant has secured all other permits and approvals required by these regulations, the City, or applicable regional, State and federal agencies.
- I. **Compliance/Revocation**  
The Director, upon inspection and review of any Conditional Use Permit, shall report to the Planning Commission when the permit holder is not in compliance with the conditions of approval. The Planning Commission shall notify the permit holder and shall set the matter of revocation for a public hearing. If the Planning Commission finds, following a public hearing, that the conditions imposed in the issuance of a Conditional Use Permit are not being complied with, the Conditional Use Permit may be revoked and further operation of the use for which the Conditional Use Permit was approved shall constitute a violation of this Zoning Code.
- J. Figure A (Conditional Use Permits) summarizes the procedure for obtaining a Conditional Use Permit.

(Section 10-20.40.050 amended by Ord. 2016-07, adopted Feb. 16, 2016)



**Note:** Actions and public hearings by the Director, Planning Commission, or City Council will be completed in accordance with the review schedule on file with the Community Development Department.

Figure A. Conditional Use Permits

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**10-20.40.060 Development Agreements****A. Purpose**

The purpose of this Division is to provide procedures for the processing of development agreements in compliance with A.R.S. § 9-500.05. An application for a development agreement may only be filed by a person owning or having a legal interest in the subject real property, or a person authorized to act on the owner's behalf.

**B. Contents of Development Agreements****1. Provisions Required**

A development agreement must include the following provisions:

- a. The duration of the development agreement;
- b. Provisions for the protection of environmental resources, if applicable;
- c. The public benefit offered by the applicant as consideration for entering into the development agreement; and,
- d. A waiver of claims for diminution in value for any changes in land use law relating to the subject property and the related proposed development (City Code Title 1 (Administration), Chapter 1-17 (City Finances)).

**2. Provisions Prohibited**

A development agreement shall not include requirements for the City to exercise its legislative or quasi-judicial powers in a particular way.

**3. Provisions Allowed**

A development agreement may include any of the provisions specified in A.R.S. § 9-500.05, as applicable to the development proposal that is the subject of the development agreement.

**C. Consideration and Decision****1. Staff Responsibilities**

- a. The Director in consultation with the City Attorney shall direct the negotiations with the applicant regarding terms of the development agreement.
- b. At such time as impact analyses are accepted by the City Engineer or Utilities Director, negotiations with the applicant regarding the terms of the development agreement may commence. An applicant shall provide a list of conditions, requirements, and stipulations to be included in a development agreement.



- c. Once negotiations are completed, the Director shall schedule the proposed development agreement for approval by the Council in compliance with this Division.

## **2. Planning Commission Recommendation**

When considering a development proposal at a public hearing for a Zoning Map amendment, subdivision preliminary plat, or other development proposal for which a development agreement is proposed, the Planning Commission may, but is not required to, make a recommendation on the contents of a draft development agreement for that development.

## **3. Council Determination**

- a. The Council shall consider approval of the development agreement at a public meeting. When also considering a development proposal for a Zoning Map amendment, subdivision preliminary plat, or other development proposal for the subject property, approval of the development agreement may be made conditional upon approval of the related application.
- b. When approving the development agreement, the Council shall make the following findings:
  - (1) The development agreement provides benefit to the City;
  - (2) The development agreement is consistent with the purpose, intent, goals, policies, programs and land use designations of the General Plan, any applicable specific plans, and this Zoning Code; and,
  - (3) The development agreement complies with the requirements of A.R.S. § 9-500.05.
- c. Approval of the development agreement shall be by resolution or ordinance and shall not be enacted by emergency clause. The effective date of the agreement may be more but not be less than 30 days after the Council's approval of the development agreement.

## **4. Execution and Recordation**

- a. The persons authorized to sign the development agreement on behalf of the applicant(s), owner(s), and all persons having an interest in the subject property shall execute the development agreement prior to approval by the Council.
- b. If changes are made at the Council meeting where the development agreement is considered, the persons authorized to sign the development agreement on behalf of the applicant(s), owner(s), and all persons having an interest in the subject property shall execute the

revised development agreement prior to the City signing the development agreement.

- c. Within 10 days after all parties, including the City, have executed the development agreement, the City Clerk shall record a copy, at the applicant's expense, of the development agreement with the County Recorder. Recordation of the development agreement constitutes notice of the development agreement to all persons.

**D. Amendment and Cancellation**

A development agreement may be amended or cancelled, in whole or in part, by mutual consent of the parties to the development agreement or by their successors in interest or assigns using the same procedure for entering into the agreement in compliance with Subsection C, above.

(Section 10-20.40.060 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.40.070 Home Occupation Permits**

**A. Purpose**

This Section establishes the permitting requirements for any home occupation as described in Section 10-40.60.180 (Home Occupations) to ensure compliance with the applicable provisions of this Zoning Code. A Home Occupation Permit shall be reviewed, approved and issued by the Director prior to the establishment of any home occupation.

**B. Review and Final Decision**

1. The Director shall review the Home Occupation Permit application and supporting documentation required by Section 10-20.30.020 (Application Process) for compliance with the requirements of this Zoning Code.
2. The Director, in compliance with the Review Schedule on file with the Planning Section, shall determine whether the Home Occupation Permit can be issued or if additional information is required from the applicant to complete the application. If the Home Occupation Permit application is denied, the reason shall be stated in writing.

(Section 10-20.40.070 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.40.080 Minor Improvement Permits**

**A. Purpose**

This Section establishes the requirements for a Minor Improvement Permit to ensure that compliance with the applicable provisions of this Zoning Code is achieved. A Minor Improvement Permit shall be reviewed, approved and issued by the Director prior to the placement, installation, construction or

development of the following structures that do not otherwise require a Building Permit as required by applicable City Building Codes:

1. Decks;
2. Garden Wall;
3. Accessory structures, such as sheds or storage containers; and,
4. Fences (See Division 10-50.50 (Fences and Screening)).

**B. Review and Final Decision**

1. The Director shall review the Minor Improvement Permit application and supporting documentation required by Section 10-20.30.020 (Application Process) for compliance with the requirements of this Zoning Code.
2. The Director, in compliance with the Review Schedule on file with the Planning Section, shall determine whether the Minor Improvement Permit can be issued or if additional information is required from the applicant to complete the application. If the application is denied, the reason shall be stated in writing.

(Section 10-20.40.080 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.40.090 Minor Modifications to Development Standards**

**A. Purpose**

The purpose of this Section is to ensure that Minor Modifications are only approved when the following circumstances exist. The authorization to approve a Minor Modification does not extend to making any changes in the uses permitted in any zone.

1. There are special circumstances applicable to the property, and the strict application of this Zoning Code would deny the owner of the property privileges enjoyed by other property located nearby and in an identical zone; and
2. Conditions are applied that would ensure that the Minor Modification shall not constitute an approval of special privilege(s) inconsistent with the limitations upon other property in the vicinity and zone in which the subject property is located.

**B. Applicability**

The Zoning Code Administrator may approve a Minor Modification for only those items specified in Table A (Types of Minor Modifications Allowed), and only after first making the findings specified in Subsection D.3, below.

**Table 10-20.40.090.A: Types of Minor Modifications Allowed**

<b>Types of Minor Modifications Allowed</b>		<b>Maximum Modification</b>
1.	A reduction of a designated setback.	5% or 2 feet, whichever is greater
2.	Where a majority of lots are developed with single-family residences with non-conforming setbacks, new buildings or structures may conform to the pattern established by the majority of the existing buildings in the same block.	Determined on a case-by-case basis
3.	An increase in allowable building height.	5% or 2 feet, whichever is greater
4.	An increase in residential lot coverage.	3%
5.	An increase in lot coverage in commercial or industrial zones.	10%
6.	An increase in the Floor Area Ratio (FAR) for commercial or industrial developments.	10%
7.	To encourage the development of housing units for disabled persons with limited mobility, a reasonable deviation from the prescribed standards of Chapter 10-40 (Specific to Zones) where necessary to install features that facilitate access and mobility of disabled persons may be allowed.	Determined on a case-by-case basis
8.	To encourage the use of passive solar designs and other sustainable practices, a reasonable deviation from the prescribed standards of Chapter 10-40 (Specific to Zones) where necessary to promote energy conservation may be allowed.	Determined on a case-by-case basis
9.	An increase or decrease in the number of dwelling units or lots.	10%
10.	A decrease in the minimum required parcel depth or parcel width.	10%
11.	A relaxation of the specified build-to-line, defined by the façade, for sites located within transect zones.	10%
12.	A relaxation of the specified front façade requirements for sites located within transect zones.	10%
13.	Minimum ground floor finished floor level in all T3 and T4 transect zones (18") for lots that slope away from the street (i.e. downhill).	Shall be measured from grade adjacent to the front elevation.
14.	A modification of Section 10-40.60.160 (Drive-through Retail), Subsections C.1 through C.5 only, to provide flexibility in the application of these standards when unique site circumstances exist.	Determined on a case-by-case basis
15.	A modification of Table 10-40.60.250.A (Site Layout and Development Design Standards). Factors to be considered include: the width and character of the street; if the site is located within a floodplain; if site conditions such as changes in topography make providing pedestrian accessibility difficult; if there is vacant property or existing non-commercial uses on the	Determined on a case-by-case basis

**Table 10-20.40.090.A: Types of Minor Modifications Allowed**

Types of Minor Modifications Allowed	Maximum Modification
opposite side of the street; or if the mixed-use development is proposed on a through lot between two primary streets and commercial uses are only appropriate on one such primary street.	
16. A modification of Subsection 10-50.20.030.B.7 (Windows) to allow the use of alternative window design and placement when warranted by unusual site circumstances and the development's context.	Determined on a case-by-case basis
17. An addition to an existing structure located as close to the property line as any existing encroachment, but no closer than any applicable Fire Code and Building Code limitations.	400 square feet
18. An increase of the allowed maximum height of a fence or wall located within a designated setback area.	20%
19. To encourage the preservation of existing healthy trees located more than 25 feet from a building foundation (Section 10-50.60.050.A.1)	100%
20. Landscaping in residential zone buffers may be reduced if the areas are retained in their natural state.	Determined on a case-by-case basis
21. Minor changes to approved landscape plans.	Determined on a case-by-case basis
22. Temporary irrigation as appropriate in hydrozones 2 and 3.	Determined on a case-by-case basis
23. Alternative configurations for landscaping required in off-street parking lots (e.g. landscape islands) as long as the 30 sf/space (or 40 sf/space for SC and RD Zones) requirement is met.	Determined on a case-by-case basis
24. A reduction in the landscaping requirements for expansions, or change or intensification of use for existing developments (Refer to Section 10-50.60.020 (Applicability)).	Determined on a case-by-case basis
25. Residential additions not meeting parking requirements in non-transect zones. An addition to an existing structure, only when the resident cannot meet the two-car parking requirement due to the subject parcel configuration.	400 square feet
26. An increase in the maximum height building mounted signs may be mounted on the wall of a building.	2 feet

**C. Decision by the Zoning Code Administrator**

The Zoning Code Administrator may approve Minor Modifications in compliance with Subsection B above or may refer the application to the Board of Adjustment for review and final decision in compliance with this Section.

**D. Review and Final Decision**

1. The Zoning Code Administrator in compliance with Subsection B above shall review the application for a Minor Modification and supporting documentation required by Section 10-20.30.020 (Application Process) for compliance with the requirements of this Zoning Code. A public hearing shall not be required for the decision on a Minor Modification.
2. The Zoning Code Administrator, in compliance with the Review Schedule on file with Planning Division, shall determine whether the Minor Modification can be approved or if additional information is required from the applicant (such as a revised traffic impact analysis report, reports assessing potential impacts on utility infrastructure, or a storm water/drainage report) to complete the Minor Modification application.
3. The Zoning Code Administrator may approve a Minor Modification application subject to conditions so long as the development will meet all the other standards or requirements set forth in this Zoning Code which apply to that development, and if the approval would be in compliance with the following findings:
  - a. There are special circumstances applicable to the property, including for example its size, shape, topography, location, or surroundings;
  - b. Approving a Minor Modification will not grant special privileges inconsistent with the limitations upon other properties in the vicinity and the zone in which the property is located;
  - c. The special circumstances applicable to the property are not self-imposed by any person presently having an interest in the property; and,
  - d. The requested Minor Modification will not allow the establishment of a use that is not otherwise permitted in the zone.
4. Each application shall be reviewed on an individual case-by-case basis and the approval of a prior Minor Modification is not admissible evidence for the approval of a new Minor Modification.
5. The decision of the Zoning Code Administrator may be appealed following the procedures established in Section 10-20.80.020 (Appeals of Interpretations by the Zoning Code Administrator or Director).

**E. Minor Modification to Run with the Land**

A Minor Modification approved in compliance with this Section shall continue to be valid upon a change of ownership of the business, parcel, service, structure or use that was the subject of the permit application in the same area, configuration and manner as it was originally approved in compliance with this Section, and the provisions of Division 10-20.60 (Nonconforming Provisions).

(Section 10-20.40.090 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.40.100 Outdoor Lighting Permits****A. Applicability**

Whenever a Building Permit, electrical permit for outdoor lighting or signs, a Conditional Use Permit, subdivision approval, or Site Plan approval is required, the applicant shall, as part of said application, submit sufficient information to enable the Director to determine whether the proposed lighting will comply with Division 10-50.70 (Outdoor Lighting Standards).

**B. Review and Final Decisions**

The Director shall review the application for an Outdoor Lighting Permit and supporting documentation required by Section 10-20.30.020 (Application Process) for compliance with the requirements of this Zoning Code. The Director, in compliance with the Review Schedule on file with the Planning Section, shall determine whether the Outdoor Lighting Permit may be issued or if additional information is required from the applicant. If the Outdoor Lighting Permit application is denied, the reason shall be stated in writing.

1. The Director's decision to approve an application for an Outdoor Lighting Permit shall be based on the following:

- a. The proposed lighting is designed in such a manner as to minimize light pollution and trespass to the maximum extent feasible;
- b. The proposed lighting will comply with the general intent of this Division;
- c. The permit will be in the public interest; and,
- d. For Temporary Outdoor Lighting Permits, the purpose for which the lighting is proposed is limited to no more than 30 days.

2. **Temporary Permit Renewals**

Temporary Outdoor Light Permits are effective for 30 days. The Director may grant one renewal of a Temporary Outdoor Light Permit for an additional 30 days, if it is determined that, because of an unanticipated change in circumstances, a renewal would be in the public interest. The Director may not grant more than one Temporary Outdoor Lighting Permit and one renewal for a 30-day period for the same property within one calendar year.

(Section 10-20.40.100 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.40.110     Parking Lot Maintenance Permits**

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**A. Purpose**

A Parking Lot Maintenance Permit is required to ensure that when existing parking lots are repaved, resealed or restriped, compliance with applicable provisions of this Zoning Code is achieved to the maximum extent feasible to ensure the following:

1. Compliance with the applicable provisions of Section 10-50.80.080 (Parking Spaces, Parking Lot Design and Layout) with specific reference to Subsection C. regarding parking for disabled persons;
2. Safety of pedestrians and vehicles; and,
3. Protection of public utilities, existing trees and other natural resources within the parking lot.

**B. Completion of Maintenance**

A Parking Lot Maintenance Permit shall be reviewed, approved and issued by the Director prior to the resealing, repaving, or restriping of existing paved parking lots. Site Plan Review is required for all new parking lots proposed for construction in compliance with Section 10-20.40.140 (Site Plan Review and Approval).

**C. Review and Final Decision**

1. The Director, in compliance with the Review Schedule on file with the Planning Section, shall review the Parking Lot Maintenance Permit application and supporting documentation required by Section 10-20.30.020 (Application Process) for compliance with the requirements of this Zoning Code. To the maximum extent feasible, existing nonconforming parking areas constructed prior to the effective date of this Zoning Code should be restriped consistent with the applicable provisions of Division 10-50.80 (Parking Standards). However, if the Director determines that such restriping would cause hardship to the property owner because of the size and shape of the parking area, reduction in the number of parking spaces, or potential impacts on utility easements, trees, existing landscape areas, the parking area may be restriped as it was before, except that the required number and dimensions of handicap accessible parking spaces shall be provided in compliance with the standards provided in Section 10-50.80.080.C.
2. The Director shall determine whether the Parking Lot Maintenance Permit can be issued or if additional information is required from the applicant to complete the application.
  - a. If the Director determines that the parking area will only be resealed and that restriping will be consistent with the layout of the existing parking area and no changes to the parking area layout are



warranted, then the required fee established in Appendix 2 (Planning Fee Schedule) shall be waived.

- b. If the Director determines that the parking area will be overlaid with new asphalt and that there may be implications to drainage, existing utilities, or that revisions to the restriping plan are needed and that a follow-up inspection(s) is required, then the required fee established in Appendix 2 (Planning Fee Schedule) shall be applied.
3. If the Parking Lot Maintenance Permit application is denied, the reason shall be stated in writing.

(Section 10-20.40.110 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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## **10-20.40.120 Sign Permits – Permanent Signs**

### **A. Purpose**

This Section establishes the permitting requirements for permanent signs and sign structures as described in Section 10-50.100.030 (Sign Permit Requirements) to ensure compliance with the applicable provisions of this Zoning Code.

### **B. Sign Permit Requirement**

Where a Sign Permit is required by Section 10-50.100.030 (Sign Permit Requirements), except as provided in Section 10-50.100.020 (Applicability), it shall be unlawful for any person to erect, place, display, alter, repair or relocate a permanent sign structure without first obtaining approval for a Permanent Sign Permit from the Director.

### **C. Inadequate Application Material**

Permits authorizing the use, construction, reconstruction or alteration of any sign structure may be withheld when inadequate information is submitted to determine if the proposed sign is in compliance with the provisions of Division 10-50.100 (Sign Standards). The Director will contact an applicant whose Sign Permit application is deficient. A Sign Permit for any sign structure shall not be issued, if the use, construction, reconstruction or alteration is found to be in conflict with the provisions of Division 10-50.100 (Sign Standards) and any other applicable City codes.

### **D. Review and Approval**

#### **1. Review**

The Director shall review the Sign Permit application and supporting documentation required by Section 10-20.30.020 (Application Process) for compliance with the standards of Division 10-50.100 (Sign Standards).

#### **2. Determination**

The Director, in compliance with the Review Schedule on file with the Planning Section, shall determine whether the Sign Permit may be issued

or if additional information is required from the applicant to complete the permit application. If the Sign Permit application is denied, the reason shall be stated in writing.

**3. Substitution**

At any time after a Sign Permit is issued, a new owner, tenant or lessee of record, may be substituted for the original applicant, if a record of the new interest is made with the City and the new interest assumes all obligations he or she would have had in compliance with the original permit. The change of interest shall not imply that any fees paid for the permit will be returned to either the interest which has been replaced or the substitute.

**4. Expiration**

A Sign Permit shall expire and become null and void, if the work authorized in compliance with the permit is not commenced within 180 days from the date of issuance of such permit, or if work is suspended or abandoned for a period 90 days or more at any time after the work has commenced. If a Sign Permit has not been obtained within 180 days after the approval of permit plans and issuance of the permit, the Director shall consider the application withdrawn and may destroy any application and plans pertaining to the application.

**E. Construction Requirements**

All permanent signs shall be designed, constructed, and installed in compliance with applicable Building Code requirements as determined by the Building Official, and shall be installed in accordance with the Registrar of Contractor's license requirements for the state of Arizona.

**F. Inspections**

1. All signs for which a Sign Permit is required are subject to inspection to establish compliance with the provisions of Division 10-50.100 (Sign Standards), as well as the following additional inspections, unless waived in writing by the Building Official:
  - a. Footing inspections on all freestanding signs, including the addition of additional sign area to existing signs;
  - b. Electrical inspections for all illuminated signs prior to placement;
  - c. Inspection of braces, anchors, supports, and connections; and,
  - d. Final inspection to establish compliance with provisions of this Zoning Code and other applicable City codes.
2. A re-inspection fee (See Appendix 2 (Planning Fee Schedule)) shall be charged if more than one inspection is made to determine compliance after issuance of a correction notice for an improperly installed sign structure, or after issuance of any notice of violation. No fees shall be

charged for an inspection establishing that a violation exists, or for the first inspection following the issuance of a notice of violation. The re-inspection charge shall be imposed if any subsequent inspection is required to determine compliance.

#### **G. Violations**

1. Any work commenced without a Sign Permit, or any work beyond the authorized scope of a Sign Permit constitutes a violation of this Division and is grounds for the Director to issue a correction notice and/or to stop all work on the sign until appropriate permits are obtained.
2. Permits issued for work commenced without a Sign Permit, or any work beyond the authorized scope of a Sign Permit shall be assessed double the required permit fees for the sign(s) otherwise as set forth in Appendix 2 (Planning Fee Schedule). Payment of a double permit fee shall not exempt any person from compliance with all other provisions of Division 10-50.100 (Sign Standards), nor from any penalty prescribed by law.

(Section 10-20.40.120 amended by Ord. 2014-27, adopted Nov. 18, 2014 and Ord. 2016-07, adopted Feb. 16, 2016)

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### **10-20.40.130 Sign Permits – Temporary Wall Banner Sign Permits**

#### **A. Purpose**

This Section establishes the permitting requirements for temporary wall banner signs as described in Section 10-50.100.090 (Portable Signs) to ensure compliance with the applicable provisions of this Zoning Code.

#### **B. Sign Permit Requirement**

It shall be unlawful for any person to erect, place, display, alter or relocate a temporary wall banner sign without first obtaining a Temporary Wall Banner Sign Permit from the Director.

#### **C. Duration of Sign Permit**

The Temporary Wall Banner Sign Permit will be valid for 30 days beginning with the date of issuance.

#### **D. Review and Approval**

##### **1. Application**

- a. An application for a Temporary Wall Banner Sign Permit for a business located in a multi-tenant development or shopping center shall be made by the property manager or property owner as the applicant on behalf of a business(s) requesting a Temporary Wall Banner Sign Permit for a temporary wall banner sign. A business owner who is also the property owner (e.g. in a single-tenant building) is considered the applicant for the purposes of this Section

and may submit an application for a Temporary Wall Banner Sign Permit for the business.

- b. No more than one temporary wall banner sign per 150 linear feet of property frontage or part thereof shall be permitted at any one time. The property manager or property owner shall be responsible for determining which of the tenants in a multi-tenant development or shopping center will be entitled to a temporary wall banner sign in accordance with this Section.

**2. Review**

The Director shall review the Temporary Wall Banner Sign Permit application and supporting documentation required by Section 10-20.30.020 (Application Process) for compliance with the standards of Section 10-50.100.090 (Portable Signs).

**3. Determination**

The Director, in compliance with the Review Schedule on file with the Planning Section, shall determine whether the Temporary Wall Banner Sign Permit may be issued or if additional information is required from the applicant to complete the permit application. If the Temporary Wall Banner Sign Permit application is denied, the reason will be stated in writing.

**4. Authorization**

Issuance of a Temporary Wall Banner Sign Permit authorizes the holder to install a temporary wall banner sign in compliance with the terms of the permit. At any time after a Temporary Wall Banner Sign Permit is issued, a new owner, tenant or lessee of record, may be substituted for the original applicant, if a record of the new interest is made with the City and the new interest assumes all obligations he or she would have had in compliance with the original permit. The change of interest shall not imply that any fees paid for the permit will be returned to either the interest which has been replaced or the substitute.

**E. Inspections**

1. All wall banners for which a Temporary Wall Banner Sign Permit is required are subject to inspection to establish compliance with the provisions of Section 10-50.100.090 (Portable Signs), and any other applicable City codes.
2. A re-inspection fee (See Appendix 2 (Planning Fee Schedule)) will be charged if more than one inspection is made to determine compliance after issuance of a correction notice for an improperly displayed portable sign, or after issuance of any notice of violation. No fees will be charged for an inspection establishing that a violation exists, or for the first inspection following the issuance of a notice of violation. The re-inspection charge will be imposed if any subsequent inspection is required to determine compliance.

**F. Violations**

Any temporary wall banner signs installed or displayed without a Temporary Wall Banner Sign Permit are in violation of this Division and will be grounds for the Director to issue a correction notice and/or to cause removal of the portable sign until appropriate permits are obtained.

(Section 10-20.40.130 amended by Ord. 2014-27, adopted Nov. 18, 2014; Ord. 2016-07, adopted Feb. 16, 2016; and Ord. 2016-22, adopted Jun. 7, 2016)

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**10-20.40.140 Site Plan Review and Approval****A. Purpose**

The purpose of this Section is to provide a process for the appropriate review of development applications. Site Plan Review as described in this Section follows an optional Pre-Application Review (Section 10-20.30.040) and a required Concept Plan Review (Section 10-20.30.050).

**B. Applicability****1. Site Plan Review**

Site Plan Review and Approval shall be required for all authorized uses, changes of use and approved conditional uses in any Zone, except for the following:

- a. Detached single-family dwellings (up to two on one lot or parcel, where permitted by the Zone, including a proposed single-family residence located on a parcel that is not part of a platted subdivision), duplexes, and related accessory uses and buildings in approved subdivisions;
- b. Interior tenant alterations or improvements which do not affect parking requirements or exterior building appearance;
- c. Nonstructural remodeling of a building facade treatment; and
- d. Sign permits for properties not otherwise subject to site plan review.

**2. Architectural Standards**

Compliance with the Architectural Design Standards (Division 10-50.20) is required for commercial, multi-family (duplex and greater), institutional, business parks and subdivisions (City Code Title 11 (Subdivision and Land Split Regulations)). Architectural standards do not apply to single-family dwellings, industrial uses not defined as business parks, or the Downtown Overlay (DO) Zone.

**C. Application for Site Plan Review****1. Application Requirements**

An application for a Site Plan Review shall be submitted on a form prescribed by the City in compliance with Section 10-20.30.020 (Application Process), together with the information and materials

requested in the Site Plan Review application checklist and the required fee established in Appendix 2 (Planning Fee Schedule).

**2. Standards of Review**

When considering an application for Site Plan Review and Approval, the Director shall consider the extent to which it:

- a. Complies with all requirements of this Zoning Code;
- b. Complies with the terms and provisions of any prior Zoning Map amendment or Conditional Use Permit;
- c. Adequately and safely provides for vehicular or pedestrian safety, both on and off site, by reason of properly arranged vehicular or pedestrian ingress and egress and internal circulation, or that excessive traffic congestion will not be created; and,
- d. Makes adequate provision to protect adjoining properties and structures from excessive and unreasonable nuisances, including for example, noise, vibrations, gases or odors, which might interfere with the use and enjoyment of surrounding properties.

**3. Application Review**

**a. Receipt of Application**

- (1) Upon receipt of an application for site Plan Review, the Director in compliance with the Review Schedule on file with the Planning Section, shall refer it to any affected departments or agencies, which shall determine whether the application complies with pertinent City standards and regulations.
- (2) The review and administrative approval of charter schools shall be conducted on an expedited basis in compliance with A.R.S. § 15-189.01 to allow for a public hearing or appeal to the Board of Adjustment (See Division 10-20.80 (Procedures for Appeals)).

**b. Minor Modifications to Site Plans Associated with Zoning Map Amendments**

The Director may approve Minor Modifications to site plans associated with Zoning Map amendments provided that the modifications will not cause any of the following to occur:

- (1) A change in the character of the development;
- (2) A significant increase in impacts on utility infrastructure or traffic on roadways adjacent or external to the development;
- (3) A change in the external impacts on adjacent property; or
- (4) A reduction in the originally approved setbacks from property lines or modification of structure height.

c. **Decision by the Director**

Upon receipt of the reports from other departments or agencies, the Director shall approve the development or site plan application as submitted; approve the application with conditions of approval; or deny the application.

d. **Conditions of Approval**

The Director may impose conditions of approval as are necessary to safeguard the public welfare, safety and health, including the submission of revised documents incorporating required conditions and modifications.

e. Figure A (Site Plan Review and Approval) summarizes the procedure for Site Plan Review and Approval.

4. **Expiration**

An approved Site Plan shall be valid for a period of one year following the date upon which the final approval became effective. If, at the expiration of this period:

- a. The subject property has not been improved for the development for which it was approved and construction permits have not been issued and construction commenced and diligently pursued toward completion of the site for which the Site Plan approval was originally granted; or
- b. A certificate of occupancy has not been issued for structure(s) which were the subject of the Site Plan approval; or
- c. The site has not actually been occupied for a permitted use if no building permit or Certificate of Occupancy is required;

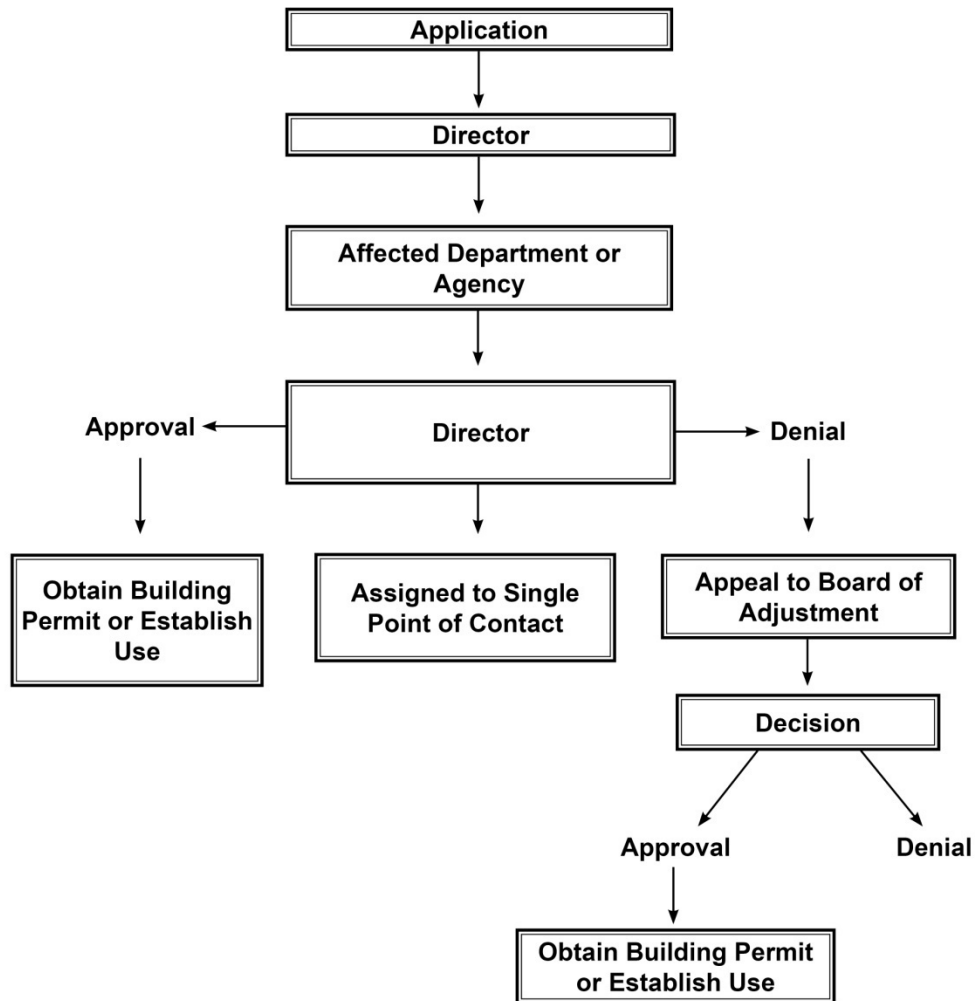
Then the Site Plan approval shall expire, unless a request for an extension of time is made by the applicant to the Director at least 30 days prior to the date of the expiration of the original approval in accordance with established application submittal scheduling requirements. A Site Plan approval subject to expiration may be extended one time only for an additional one year by the Director provided that no revisions to the development are necessary to comply with amendments to the Zoning Code that may have taken effect since the time of the original approval. Upon the expiration of the original Site Plan approval, if no extension has been granted or no application for the same has been submitted, or a granted time extension has expired, then the original Site Plan approval shall be considered as expired, and a new Site Plan shall be submitted for approval in the same manner as an original application for Site Plan Review and Approval (Section 10-20.40.140).

5. **Amendments**

The holder of approved Site Plans may request a modification to the documents or the conditions of approval by submitting amended documents to the Director. If applicable, the amended documents may be

filed and processed in compliance with Section 10-20.40.090 (Minor Modifications to Development Standards).

(Section 10-20.40.140 amended by Ord. 2016-07, adopted Feb. 16, 2016)



**Notes:**

1. Actions and public hearings by the Director, Planning Commission, or City Council will be completed in accordance with the review schedule on file with the Community Development Department.
2. Decision of the Planning Commission can be appealed to the City Council.

Figure A. Site Plan Review and Approval



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**10-20.40.150 Temporary Use Permits**

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**A. Purpose**

The purpose of this Section is to allow for short-term activities that are compatible with adjacent and surrounding uses when conducted in compliance with this Zoning Code. Temporary uses are not intended to be permanent uses but are transitional in nature, generally allowing for emergency situations, construction activity, or the cultivation and establishment of small, low-overhead businesses and their eventual relocation into a permanent structure. Except as listed in Subsection D, no temporary use shall be established or maintained unless the Director has approved a Temporary Use Permit in compliance with the requirements of this Section and other applicable divisions of this Zoning Code.

**B. Review and Final Decision**

1. The Director shall review the Temporary Use Permit application and supporting documentation required by Section 10-20.30.020 (Application Process) for compliance with the requirements of Section 10-20.40.150 (Temporary Use Permits).
2. The Director, in compliance with the Review Schedule on file with the Planning Section, shall determine whether the Temporary Use Permit can be issued or if additional information is required from the applicant to complete the application. If the application is denied, the reason shall be stated in writing.

**C. Time Limits**

1. Unless otherwise provided for in Subsection D below, a Temporary Use Permit shall be valid for up to 180 days in any given calendar year.
2. The same temporary use may only be established at a maximum of three different locations, each for a maximum of 180 days in any given calendar year.

**D. Allowed Temporary Uses**

A Temporary Use Permit shall be required for the following temporary activities. Other temporary or short-term activities that do not fall within the categories defined below shall comply with the planning permit requirements and development standards that otherwise apply to the property.

1. **Concerts, Carnivals, Farmers Markets, Flea Markets, Vehicle Sales and other Special Events**
  - a. The event organizer shall provide written authorization from the private property owner(s) or property management company(s) representing the property owner(s) to utilize the property on which they intend to conduct the event.

- b. The use shall be limited to the approved dates, days and hours of operation. The event organizer or an assigned individual shall be present on-site at all times while the event is in operation.
  - c. The location of the event, equipment, structures and display(s) shall be a minimum of 10 feet inside the property line and shall conform to an approved site drawing.
  - d. There shall be no disruption of vehicle access, traffic-flow, pedestrian access ways, or sidewalks, or use of landscaped areas.
  - e. All signs associated with these events shall be placed in compliance with the provisions of Section 10-50.100.090 (Temporary Signs).
  - f. The use of any outdoor lighting shall be fully shielded in compliance with the provisions of Division 10-50.70 (Outdoor Lighting Standards) and shall be extinguished outside of the approved hours of operation.
  - g. The event organizer shall adhere to all City sales tax requirements and all applicable Coconino County Health Codes for food preparation, handling, and sales.
  - h. These temporary uses permitted in this Subsection shall be limited to no more than 10 consecutive days per event and no more than six events on the same parcel within a calendar year, except that farmers markets and flea markets shall be limited as follows:
    - (1) Flea markets: no more than three consecutive days per event and no more than 24 events on the same parcel within a calendar year.
    - (2) Farmers markets: no more than three days per week and for no more than 24 weeks on the same parcel within a calendar year.
  - i. These temporary uses may be conducted in all zones provided the event organizer can demonstrate that the site is adequate to support the intended event, anticipated attendance, anticipated vehicle access, and parking, and will not create public health and safety hazards to persons attending the event and the surrounding uses to the proposed event. The Director may require the event organizer to notify and/or obtain written approval from property owners within 300 feet of the proposed event location if it is determined that the event may impact nearby property owners.
2. **Construction Yards - Off-site**  
Off-site contractors' construction yards for an approved construction project require a Temporary Use Permit. Written authorization from the private property owner(s) or property management company(s) representing the property owner(s) shall be provided prior to the establishment of the off-site construction yard. The construction yard shall be removed immediately upon completion of the construction project or the expiration of the building permit authorizing the construction project, whichever occurs first.

### 3. Food Vendors

- a. The food vendor shall provide written authorization from the private property owner(s) or property management company(s) representing the property owner(s) to utilize the property on which they intend to locate. No food vendor shall be permitted to operate on more than five properties within a calendar year.
- b. The use shall be limited to the approved dates, days and hours of operation. The vendor's operation shall be occupied by the vendor or an employee working for the vendor during the approved hours of operation.
- c. The location of the vendor's equipment, structures and display(s) shall be a minimum of 10 feet inside the property line and shall conform to an approved site drawing.
- d. There shall be no disruption of vehicle access, traffic-flow, pedestrian access ways, or sidewalks or use of landscaped areas.
- e. All signs associated with these events shall be placed in compliance with the provisions of Section 10-50.100.090 (Temporary Signs).
- f. The use of any outdoor lighting shall be fully shielded in compliance with the provisions of Division 10-50.70 (Outdoor Lighting Standards) and shall be extinguished outside of the approved hours of operation.
- g. The vendor shall adhere to all City sales tax requirements and all applicable Coconino County Health Codes for food preparation, handling and sales.
- h. Temporary food vendors that operate within the City for a total of 60 days or less per calendar year at a single or multiple locations may continue to use the same location(s) for subsequent calendar years.
- i. Temporary food vendors whose business is limited to a maximum of nine months per calendar year that operate within the City for more than 61 days per calendar year at a single or multiple locations shall be limited to two consecutive years at the same location(s). A one-time extension of the Temporary Use Permit may be granted for a maximum of one additional year. When issuing a renewal of a Temporary Use Permit, the Director shall ensure that the following conditions are satisfied:
  - (1) All conditions of approval of the original Temporary Use Permit continue to be satisfied;
  - (2) Any complaints received relative to conduct and locations of the temporary use have been resolved to the satisfaction of the Director;
  - (3) Adequate facilities for trash disposal are located near the temporary use; and

- (4) Any temporary or permanent signs are in compliance with the applicable standards of Division 10-50.100 (Sign Standards).
- j. A food vendor who intends to establish a recurring seasonal temporary use where the temporary use is established on a property on an annual basis or other regular time frame, or who seeks to establish the temporary use for more than three years as permitted in Subsection i, above, may apply for a Conditional Use Permit for such use following the procedures established in Section 10-20.40.050 (Conditional Use Permit).
- k. These temporary food vendor uses shall be limited to any Commercial Zone, the RD, LI, and LI-O Industrial Zones, and the T5 and T6 Transect Zones.

#### 4. Merchandise and Service Vendors

- a. Vendors shall provide written authorization from the private property owner(s) or property management company(s) representing the property owner(s) to utilize the property on which they intend to locate. No vendor shall be permitted to operate on more than three properties within a calendar year.
- b. The use shall be limited to the approved dates, days, and hours of operation. The vendor's operation shall be occupied by the vendor or an employee working for the vendor during the approved hours of operation.
- c. The location of the vendor's equipment, structures, and display(s) shall be a minimum of 10 feet inside the property line and shall conform to an approved site drawing.
- d. There shall be no disruption of vehicle access, traffic-flow, pedestrian access ways, or sidewalks or use of landscaped areas.
- e. All signs associated with these events shall be placed in compliance with the provisions of Section 10-50.100.090 (Temporary Signs).
- f. The use of any outdoor lighting shall be fully shielded in compliance with the provisions of Division 10-50.70 (Outdoor Lighting Standards) and shall be extinguished outside of the approved hours of operation.
- g. The vendor shall adhere to all City sales tax requirements.
- h. Temporary vendors that operate within the City for a total of 60 days or less per calendar year at a single or multiple locations may continue to use the same location(s) for subsequent calendar years.
- i. Temporary vendors that operate within the City for more than 61 days to a maximum of 180 days per calendar year at a single or multiple locations shall be limited to two consecutive years at the

same location(s). A one-time extension of the Temporary Use Permit may be granted for a maximum of one additional year. When issuing a renewal of a Temporary Use Permit, the Director shall ensure that the following conditions are satisfied:

- (1) All conditions of approval of the original Temporary Use Permit continue to be satisfied;
  - (2) Any complaints received relative to conduct and locations of the temporary use have been resolved to the satisfaction of the Director;
  - (3) Adequate facilities for trash disposal are located near the temporary use; and
  - (4) Any temporary or permanent signs are in compliance with the applicable standards of Division 10-50.100 (Sign Standards).
- j. A vendor who intends to establish a recurring temporary use where the temporary use is established on a property on an annual basis or other regular time frame, or who seeks to establish the temporary use for more than three years as permitted in Subsection i, above, may apply for a Conditional Use Permit for such use following the procedures established in Section 10-20.40.050 (Conditional Use Permit).
- k. These temporary uses shall be limited to any Commercial Zone, the RD, LI, and LI-O Industrial Zones, and the T5 and T6 Transect Zones.

**5. Indoor Special Public Events**

The Director may approve a Temporary Use Permit for an indoor special event in any zone for no more than 10 days within any 12-month period. A Temporary Use Permit is not required when the event:

- a. Is in a completely enclosed building in a commercial or residential zone;
- b. Is in a building designed and approved for public assembly;
- c. Must end by 9:00 p.m.; and
- d. The Director may require the applicant to notify adjoining residential property owners if the indoor special public event may have an impact on surrounding property owners due to increased traffic or other concerns. A non-profit organization shall not be required to pay a fee for the Temporary Use Permit, provided that the organization requests no more than one permit per year.

**6. Mobile Home or Trailer for Night Watchman**

A mobile home or travel trailer located at an existing business may be used as a temporary residence for a night watchman. (See also Residence

for Owner, Caretaker or Manager as allowed in commercial and industrial zones).

7. **Model Homes**

A model home or model home complex may be authorized prior to the completion of sales in a residential subdivision for a maximum of two years from date of approval.

8. **Promotional Sale Associated with Permanent On-site Use**

A promotional sale is permitted for 30 days when the permanent use first opens and for 10 days per year thereafter.

9. **Temporary Concrete Batch Plants and Asphalt Reprocessing Plants**

Temporary concrete batch and asphalt reprocessing plants (including materials processing and handling) require a Temporary Use Permit unless the plant and associated materials are used only for on-site construction.

- a. Permitted in the RR, LI, and HI Zones.
- b. The applicant shall submit a routing plan for egress and ingress to the proposed plant. Such facilities shall only be allowed access via arterial or collector roads. Access via local or arterial roads serving residential areas shall be prohibited.
- c. Tree removal is not allowed. The applicant shall submit a plan to restore the site after the plant ceases operations.
- d. Such facilities shall be located at least 1,000 feet from any occupied building or residential use, except for an associated office on the same site.
- e. Such facilities shall be shown on a site plan and only be permitted in conjunction with private or public road or public works improvements, newly platted subdivisions, or sites of five acres or more.
- f. Such facilities shall not interfere with natural resources as defined in Division 10-50.90 (Resource Protection Standards).
- g. Dust, fumes, vapors, mists, or gas nuisances from operations shall be maintained in accordance with City, State and federal air pollution standards.
- h. The applicant shall provide a financial assurance in an amount approved by the City Engineer to cover potential damage to roads during plant operations and restoration of the site according to the plan submitted in Subsection c.
- i. The City Engineer shall review and make recommendations on Temporary Use Permits for these uses.
- j. Temporary Use Permits for these facilities may be approved for the

period of the road or highway work up to a maximum of eight months.

**10. Temporary Real Estate Sales Offices**

A temporary real estate sales office may be established within the area of an approved development, solely for the first sale of lots or homes. An application for a Temporary Use Permit for a temporary real estate office may be approved for a maximum of two years from the date of approval, with the option of one two-year extension subject to the approval of an additional Temporary Use Permit.

**11. Temporary Storage of Buildings**

The temporary storage of buildings to be relocated to a permanent site shall be subject to a Temporary Use Permit. (See Section 10-20.40.040.C).

**12. Temporary Structures**

A temporary classroom, office or similar structure, including a manufactured or mobile unit, may be approved for a maximum of one year from the date of approval, as an accessory use or as the first phase of a development. An extension of one year may be granted by the Director. A temporary structure proposed for a longer time period shall comply with all provisions of this Zoning Code applicable to a permanent structure on the same site.

**13. Temporary Occupancy of a Recreational Vehicle**

In any residential zone with a lot or parcel area of at least 0.5 acre, a recreational vehicle may be used as a temporary residence while a new single-family home is under construction subject to the following conditions:

- a. Only the property owner may live in a recreational vehicle while the new residence is under construction. As soon as construction has been concluded (i.e. a Certificate of Occupancy has been issued), the recreational vehicle must be vacated and the owners must move into the completed residence; and
- b. The construction of the residence must be diligently pursued to completion, i.e. the residence must be constructed within the typical time frame for constructing such a building. If the residence is not completed within a reasonable period of time the Temporary Use Permit allowing temporary residence may be terminated by the Zoning Code Administrator.

**14. Similar Temporary Activities**

The Director may authorize other temporary activities that are similar to the activities listed in this Subsection and that are compatible with the applicable zone and surrounding land uses.

**E. Exempt Temporary Activities**

The following temporary activities are allowed without a Temporary Use Permit.

1. **Construction yards - On-site**  
On-site contractors' construction yards for an approved construction project are authorized so long as the construction yard is removed immediately upon completion of the construction project, or the expiration of the building permit authorizing the construction project, whichever occurs first.
2. **Emergency Facilities**  
Emergency public health and safety facilities and activities, including disaster preparedness shelters established in a facility that provides temporary shelter from extremely cold weather or other unusual emergency situations (such as churches or other places of worship) are authorized for the duration of the emergency.
3. **Garage Sales**  
Any parcel or lot is authorized to have no more than 12 weekend sales per year, and no individual sale may exceed two consecutive days.
4. **Special Event on Public Property**  
Activities conducted on City-owned property may be authorized by the City and permitted with a Special Event Permit issued by the City Recreation Division.
5. **Seasonal Sales**  
Seasonal sales (e.g., Christmas trees, pumpkins) are permitted for up to 45 days in commercial zones.
6. **Temporary Work Trailers**  
A trailer or mobile home may be used as a construction office or a temporary work site for employees provided that:
  - a. The use is authorized by a building permit for the trailer and the building permit for the permanent structure; and,
  - b. The use is appropriate because:
    - (1) The trailer or mobile home will be in place during the construction of a subdivision, or the construction or remodeling of a permanent commercial or manufacturing structure, for a maximum of one year, or upon expiration of the building permit for the permanent structure, whichever occurs first;
    - (2) The applicant has demonstrated that the temporary work site is a short-term necessity for a maximum of one year, while a permanent work site is being obtained; and,
    - (3) The trailer will be removed prior to final building inspection or the issuance of a Certificate of Occupancy for the permanent structure.

(Section 10-20.40.150 amended by Ord. 2014-27, adopted Nov. 18, 2014 and Ord. 2016-07, adopted Feb. 16, 2016)



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**10-20.40.160 Zoning Verification**

**A. Purpose**

Zoning Verification Letters may be requested from the Director by a property owner or a representative for a property owner who is seeking verification of the zoning status for a property. Other associated information may also be requested and provided, if available, such as any development approvals granted by the City, existing nonconformities or violations.

**B. Process for Review**

Upon receipt of a complete zoning verification request, the Director, in compliance with the Review Schedule on file in the Planning Section, shall:

1. Verify the zoning and surrounding zoning in which the property is located.
2. Determine the current use of the property.
3. Identify if there are any documented violations or nonconformities for the property.
4. Research and review the development history of the subject property.
5. Conduct any other research or background checks to reasonably provide the information as requested by the property owner.
6. Prepare a final Zoning Verification Letter for transmission to the property owner or a representative for the property owner.

(Section 10-20.40.160 amended by Ord. 2016-07, adopted Feb. 16, 2016)



# Division 10-20.50: Amendments to the Zoning Code Text and the Zoning Map

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## Sections:

- 10-20.50.010 Purpose
- 10-20.50.020 Applicability
- 10-20.50.030 Initiation of Amendments
- 10-20.50.040 Procedures
- 10-20.50.050 Appeal
- 10-20.50.060 Reversion of Conditional Zoning Map Amendment Approval
- 10-20.50.070 TNCP Zoning Map Amendments

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### **10-20.50.010 Purpose**

This Division provides procedures for the amendment of the text of this Zoning Code and the Zoning Map consistent with applicable law.

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### **10-20.50.020 Applicability**

The procedures established in this Division shall apply to all proposals to change the text of this Zoning Code, amend a parcel's zoning designation, or a zone boundary on the Zoning Map. Amendments to the text of this Zoning Code and the Zoning Map shall only be made through the procedures described in this Division and the adoption of an amending ordinance by the Council.

(Section 10-20.50.020 amended by Ord. 2013-21, adopted Nov. 5, 2013)

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### **10-20.50.030 Initiation of Amendments**

#### **A. Owner Initiation**

1. A property owner or an agent authorized by the property owner in writing may apply for a Zoning Map or text amendment.
2. In the event that a real property owner files an application for a Zoning Map amendment that includes property other than that owned by the applicant, the applicant shall file, on a form provided by the Director, a petition in favor of the request signed by the real property owners representing at least 75 percent of the land area to be included in the application. The petition shall bear the property owners' signatures and addresses, the legal description and land area of each property represented on the petition, the total land area represented by the petition, and the total land area of individual properties included in the application.

**B. Council**

The Director on behalf of the Council may initiate an amendment to the text of this Zoning Code or the Zoning Map. Applications for amendments initiated by the Council shall be signed by the Director.

**C. Withdrawal**

An applicant may withdraw an application for an amendment to this Zoning Code or the Zoning Map at any time.

(Section 10-20.50.030 amended by Ord. 2013-21, adopted Nov. 5, 2013)

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**10-20.50.040 Procedures****A. Pre-application Review**

An optional pre-application review with the Director is recommended for all applications consistent with the procedures set forth in Section 10-20.30.040 (Pre-Application Review by Director).

**B. Citizen Review**

All applications to amend the text of this Zoning Code or the Zoning Map shall include a process for citizen participation. Citizen participation shall, at a minimum, consist of a Neighborhood Meeting or a work session of the Planning Commission, as set forth below. The Director may implement additional procedures for citizen participation.

**1. Zoning Map Amendments**

The applicant shall schedule and conduct a Neighborhood Meeting in compliance with the procedures set forth in Section 10-20.30.060 (Neighborhood Meeting). For requests to designate property as a Landmark, Historic Property or Historic District a public meeting of the Heritage Preservation Commission held prior to any public hearing on the request shall satisfy the requirement for a Neighborhood Meeting.

**2. Text Amendments to this Zoning Code**

- a. A citizen review session shall be held at the Planning Commission work session that is scheduled for the consideration of any proposed text amendment. Landowners and other citizens potentially affected by the proposed text amendment will have an opportunity to comment on the proposed text amendment.
- b. Notice of the citizen review session shall be given to adjacent landowners, citizens potentially affected by the proposed text amendments, and any person or group who has specifically requested notice regarding the application, in compliance with the Review Schedule on file with the Planning Section and A.R.S. § 9-462.04.A. The notice shall state the date, time, and place of the citizen review session and shall include a general explanation of the proposed text amendment. A copy of the notice shall be submitted to the Director.

The form of notice to be used may vary according to the type of text amendment proposed. The form of notice given may include, but is not limited to at least (1), (2), or (3), as well as optionally (4):

- (1) First class mail sent to each property owner, as shown on the last assessment, whose property is directly governed by the changes;
  - (2) Inclusion in utility bills or other mass mailing distributed by the City;
  - (3) Publication in a local newspaper of general circulation distributed to City residents; or
  - (4) Posting on the City website.
- c. The Planning Commission or Heritage Preservation Commission may take into account issues and concerns raised by landowners and other residents potentially affected by the proposed text amendments. Prior to the Council hearing, the Planning Commission or Heritage Preservation Commission shall report on the issues and concerns raised during the citizen review session.

#### C. Application Requirements

1. Applications for Zoning Code text or Zoning Map amendments shall be submitted to the Director in writing on a form prescribed by the City in compliance with Section 10-20.30.020 (Application Process). The application shall include the information and materials specified in the checklist, together with the required fee established in Appendix 2 (Planning Fee Schedule).
2. The submittal requirements for applications for Zoning Map amendments vary based on the size of the development and whether an amendment to the General Plan is required, as set forth below:
  - a. **Small-scale Zoning Map Amendments**  
These are applications for Zoning Map amendments for which no infrastructure analyses typically required by the *Engineering Standards* are necessary and which are determined by the Director to be consistent with the General Plan and compatible with surrounding development. These would typically include developments located on small lots or parcels, such as for example, a duplex. For such applications, the requirements for a site analysis and concept zoning plan may be waived if in the opinion of the Director they are not warranted based on the conditions in Subsections 3.b and 3.c, below.
  - b. **Medium-scale Zoning Map Amendments**  
These are applications for Zoning Map amendments for developments that fall below the thresholds for large-scale Zoning Map amendments and that meet the following thresholds:

- (1) Require a minor amendment to the General Plan as defined in City Code Title 11, Planning Documents, Section 11-10.20.020 (Major Plan Amendments and New Elements); and/or
- (2) Require infrastructure analyses in accordance with the *Engineering Standards*.

For such applications, the minimum submittal requirements for a concept zoning plan are required including a development agreement (See Section 10-20.40.060 (Development Agreements)) when needed to define applicant/City obligations for such elements as offsite infrastructure improvements, affordable housing, or open space.

**c. Large-scale Zoning Map Amendments**

These are applications for Zoning Map amendments that meet the following thresholds:

- (1) Include residential developments over 100 units, or all commercial developments over 50,000 sq. ft. or 15 acres, or all industrial and research and development uses over 150,000 sq. ft. or 20 acres; or
- (2) Require a major amendment to the General Plan as defined in Section 11-10.20.020 (Major Plan Amendments and New Elements).

For such applications, the minimum submittal requirements for a concept zoning plan are required, as well as infrastructure analyses as required by the *Engineering Standards*. Compliance with the requirements of Section 10-20.30.070 (Additional Requirements for Citizen Outreach) may also be required depending on the size of the proposed development. In addition a development agreement that defines applicant/City obligations such as offsite infrastructure improvements, affordable housing, or open space is required to be submitted at such time as impact analyses have been accepted by the City Engineer or Utilities Director (See Section 10-20.40.060 (Development Agreements)).

**d. Multi-phase Scale Zoning Map Amendments**

These are applications for Zoning Map amendments for very large projects that meet the following thresholds:

- (1) Are complex in terms of their associated development issues; involve the future subdivision of land and the potential for multiple land developers; include multiple land use types; include multiple Zone designations; involve complex utility infrastructure issues; and, will require the design and layout of an internal street network to connect to existing streets; or

- (2) Require a major amendment to the General Plan as defined in Section 11-10.20.020 (Major Plan Amendments and New Elements).

For such applications, the minimum submittal requirements for an enhanced concept zoning plan are required which includes the additional information described in the checklist.

3. The Director may request any other information that is relevant to assist in the review of a Zoning Code text or Zoning Map amendment. The Director's decision to require additional information to assist the Planning Commission and Council in their review of the Zoning Code text or Zoning Map amendment shall be based on whether any of the following apply:
  - a. The need to ensure that any General Plan policies and requirements that may be specific to the subject property are addressed either in a written report or on submitted plans;
  - b. The proposed development anticipated in compliance with the requested zoning designation while consistent with the General Plan Land Use Map may not be generally compatible with surrounding uses and neighborhoods based on the size, height, scale, mass and proportion of the proposed development (therefore a 3-dimensional bulk and mass analysis may be required); or
  - c. The subject property is encumbered with natural resources such as floodplains, forests, and steep slopes, and compliance with the Resource Protection Overlay (See Division 10-50.90 (Resource Protection Standards)) is required.
4. The Director may waive the requirements for any of the information required in Subsection C if it is determined that such information is not necessary in order to complete a review of the requested Zoning Map amendment.
5. An applicant may submit additional detail and more information than the minimum required in Subsection C.

**D. Application Procedures – a Two Pronged Approach**

An applicant requesting an amendment to the Zoning Map regardless of the scale of the project as defined in Section 10-20.50.040.C.2 may elect to pursue either one of the two approaches described below:

1. **Direct Ordinance with a Site Plan**

The **Direct Ordinance with a Site Plan** process, illustrated in Figure B, provides an applicant with a shorter approval process with fewer steps. This process enables an applicant to submit fully developed site plans with all supporting information required for Site Plan Review and Approval (Section 10-20.40.140) concurrently with the Zoning Map

amendment application. Once the Zoning Map amendment is approved by the Council, then the applicant may proceed directly to construction plan and building permit review (Section 10-20.40.030 (Building Permits and Certificates of Occupancy)), and no additional site plan review is required. However, if the Council adds conditions of approval that require substantial amendments to the site plan, as determined by the Director, then a revised application shall be submitted for Site Plan Review and Approval (Section 10-20.40.140) prior to building permit review and approval.

2. **Authorization to Rezone with a Concept Zoning Plan**

The **Authorization to Rezone with a Concept Zoning Plan** process illustrated in Figure C. decouples a Zoning Map Amendment application from an application for site plan review and approval. In this case, a concept zoning plan would be developed and submitted in support of the zone change request, and assuming Council approval of the Zoning Map amendment, then a complete site plan application would be submitted at a later time in accordance with the requirements of Section 10-20.40.140 (Site Plan Review and Approval).

E. **Staff Review**

1. An application for a text amendment to this Zoning Code or an amendment to the Zoning Map shall be submitted to the Director and shall be reviewed and a recommendation prepared in compliance with the Review Schedule on file with the Planning Section.
2. The Director's recommendation shall be transmitted to the Planning Commission in the form of a staff report prior to a scheduled public hearing. The staff report shall include the following:
  - a. An evaluation of the consistency and conformance of the proposed amendment with the goals of the General Plan and any applicable specific plans;
  - b. A recommendation on the amendment and the grounds for the recommendation based on the standards and purposes of the zones set forth in Division 10-40.20 (Establishment of Zones); and
  - c. A recommendation on whether the text amendment or Zoning Map amendment should be granted, granted with conditions to mitigate anticipated impacts caused by the proposed development, or denied.
3. A copy of the staff report shall be made available to the public and any applicant prior to the public hearing.



**F. Findings for Reviewing Proposed Zoning Map Amendments and Text Amendments**

1. An amendment to the Zoning Map or the text of this Zoning Code may be approved only if all of the following findings are made, as applicable to the type of amendment:
  - a. Findings for Zoning Map Amendments:
    - (1) The proposed amendment is consistent with and conforms to the goals of the General Plan and any applicable specific plans;
    - (2) The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City and will add to the public good as described in the General Plan; and
    - (3) The affected site is physically suitable in terms of design, location, shape, size, operating characteristics and the provision of public and emergency vehicle (e.g., fire and medical) access, public services, and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal), to ensure that the requested zone designation and the proposed or anticipated uses and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.
  - b. Findings for Text Amendments:
    - (1) The proposed amendment is consistent with and conforms to the objectives and policies of the General Plan and any applicable specific plan;
    - (2) The proposed amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the City; and
    - (3) The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.
2. If the application is not consistent with and does not conform to the General Plan and any other applicable specific plan, the applicable plan must be amended in compliance with the procedures established in City Code Title 11, Chapter 11-10 (General Plans) prior to considering the proposed amendment. The Director shall determine if a General Plan (or other applicable specific plan) amendment is required and whether the amendment would be a minor or major plan amendment, based upon the criteria set forth in Section 11-10.20.020 (Major Plan Amendments and New Elements).

3. An application for a major amendment to the General Plan and a Zoning Map amendment for the same development site/application will not be considered at the same time. If it is determined that a major amendment to the General Plan is required, then the application for a Zoning Map amendment shall wait until the major plan amendment has been approved.
4. An amendment to the General Plan map that is determined to be minor may be considered and heard at the same time as the application for a Zoning Map amendment.

**G. Notification**

Public notification of an amendment to the text of this Zoning Code or the Zoning Map shall be provided in compliance with Section 10-20.30.080 (Notice of Public Hearings). When the proposed amendment involves land that abuts unincorporated areas of Coconino County, the Director shall send a copy of the notice of public hearing to the planning agency of Coconino County.

**H. Planning Commission Public Hearing**

1. If the Director determines that the requested Zoning Map amendment would not require a General Plan (or other applicable Specific Plan) amendment, the Director shall give notice and the Planning Commission shall conduct a public hearing on the application.
2. The Planning Commission may request additional information that is relevant to assist in the review of a Zoning Code text or Zoning Map amendment subject to the criteria established in Subsection 10-20.50.040.C.3.

**I. Action by the Planning Commission**

The Planning Commission shall render its decision in the form of a written recommendation to the Council. The recommendation shall include the reasons for the recommendation (Refer to Section 10-20.30.090 (Findings Required)). The Planning Commission may recommend approval, approval with modifications and/or conditions, or denial of the proposed amendment. If the Planning Commission fails to make a recommendation to the Council within 30 days after closing the public hearing, the Planning Commission shall be deemed to have recommended denial and the application shall be scheduled for public hearing and action by the Council.

**J. Council Public Hearing**

1. Upon receipt of a recommendation from the Planning Commission, the Council shall conduct a public hearing and take action on any application to amend the text of this Zoning Code or the Zoning Map. The Council may refer the application back to the Planning Commission for further study and a revised recommendation.

2. The Council may request additional information that is relevant to assist in the review of a Zoning Code text or Zoning Map amendment subject to the criteria established in Subsection 10-20.50.040.C.3.

**K. Council Action**

The Council shall review the proposed amendment or Zoning Map amendment and the recommendations of the Planning Commission and Director, and shall grant or deny the application.

**L. Ordinance Effective Date**

An ordinance granting a Zoning Map amendment is, by state statute, subject to referendum and shall not become effective until 30 days after the date of adoption or the date the final ordinance is available from the City Clerk, whichever is later. The effective date of the ordinance is not necessarily the effective date of Zoning Map amendment. The effective date of the Zoning Map amendment is when compliance with conditions of approval is completed and certified by the Director. No permits or development approvals may be granted that are in furtherance of the Zoning Map amendment request until the 30 days have lapsed and the conditions of approval have been met.

**M. Protest Procedures**

A protest against a proposed amendment may be filed in writing by the owners of 20 percent or more of either;

1. The area of the parcel(s) of land included in the proposed zoning map amendment; or
2. The area of those parcel(s) of land immediately adjacent in the rear or any side of the subject property(ies) extending 150 feet from the subject property(ies); or
3. The area of those parcel(s) of land directly opposite the subject property(ies) extending 150 feet from the street frontage of the opposite parcels of land.

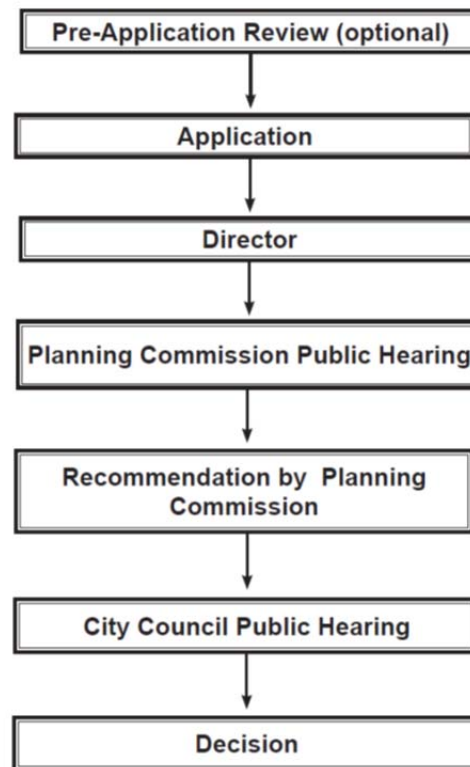
Such protest shall be hand-delivered to the City Clerk by no later than 12:00 noon five business days after the City Council first considers the application at a public hearing. If a timely protest is filed, the amendment shall not become effective except by a favorable vote of three-fourths of all members of the Council. If any member of the Council is unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths of the remaining membership of the Council, provided that such required number of votes shall in no event be less than a majority of the full membership of the Council.

**N. Conditions of Approval**

1. The Council may impose such reasonable and appropriate conditions and safeguards as are necessary to a Zoning Map amendment request to:
  - a. Carry out the purposes of the General Plan or other applicable specific plans;
  - b. Ensure all required findings are satisfied and compatibility with adjacent land uses has been assured;
  - c. Reduce or minimize any potentially injurious effects on adjacent properties;
  - d. Protect the character and scale of the neighborhood; or
  - e. Protect the health, safety, or general welfare of the community.
2. Such conditions of approval may include, but are not limited to:
  - a. Structural or vegetative screening greater than that required by the landscaping and screening standards of Division 10-50.60 (Landscaping Standards) to buffer the surrounding land uses from the proposed use;
  - b. Limitations on the allowable uses permitted within the approved Zone that are more restrictive than the otherwise allowed uses established in Division 10-40.30 (Non-Transect Zones);
  - c. Limitations on the height, setbacks, FAR, or other standards specific to the approved Zone which are more restrictive than the applicable requirements of Division 10-40.30 (Non-Transect Zones) or 10-40.40 (Transect Zones);
  - d. Limitations on the height, size, or illumination of signs more restrictive than the applicable requirements of Division 10-50.100 (Sign Standards);
  - e. Limitations on the conduct of the proposed use, such as, but not limited to, hours of operation, or use of loudspeakers or external lighting, as necessary to protect adjacent land uses;
  - f. Public dedication of necessary right-of-way for streets, alleys, drainage ways, and public utilities, and installation of off-site improvements as are reasonably required by or related to the effect of the Zoning Map amendment;
  - g. A stipulation that the applicant schedule an additional neighborhood informational meeting in compliance with the procedures set forth in Section 10-20.30.060 (Neighborhood Meeting) prior to submittal of an

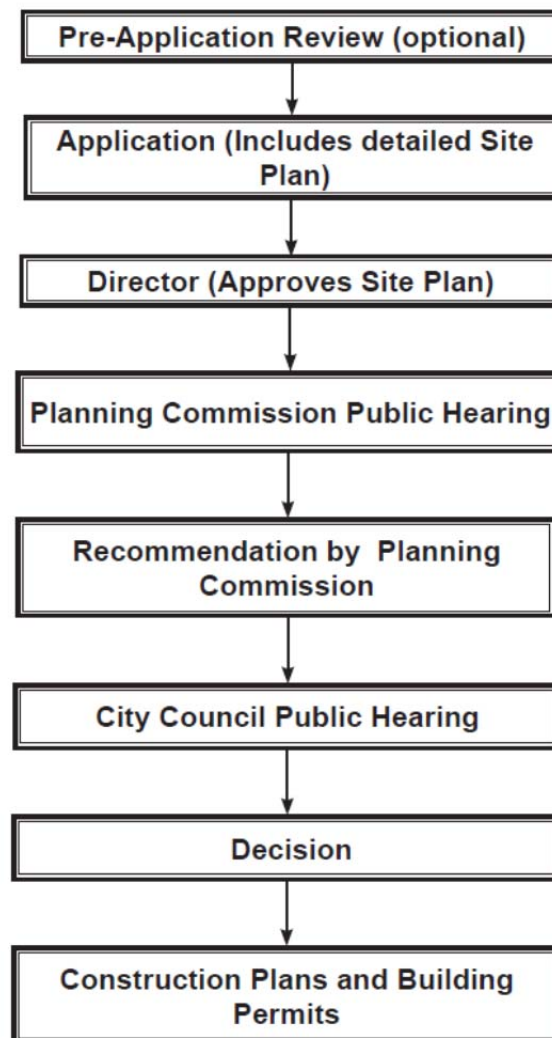
application for Site Plan Review and Approval (Section 10-20.40.140) so that interested residents may view the final site plan and other applicable plans for consistency with approved conditions of approval. The applicant shall create a written summary of the meeting, which shall be filed with the Director; and

- h. A stipulation that if the subject property is not located within the Resource Protection Overlay Zone (See Section 10-40.50.030 (Overlay Zones)), then compliance with the resource protection standards established in Division 10-50.90 (Resource Protection Standards) is required.
- 3. A violation of any condition shall be considered to be a violation of these regulations.
- 4. The concept zoning plan upon which the Zoning Map amendment may be approved establishes the development entitlement for the subject property. As the approval is based on a concept zoning plan, some flexibility in the layout of the property may therefore be approved by the Director, provided that no additional external impacts to surrounding uses and infrastructure will result and there is no increase or decrease in FAR, lot coverage, number of dwelling units, or building height in excess of that permitted in Table 10-20.40.090.A (Types of Minor Modifications allowed). As an example, if the concept zoning plan shows a building placed in close proximity to a street so that it has a strong relationship to the street and with parking behind it, the location and shape of the building may be adjusted provided that the same relationship to the street with the parking area in the rear is maintained. Similarly, internal circulation or parking areas may be adjusted provided that there is no impact to the location or design of access driveways or streets, and there are no additional impacts on adjoining City streets.
- O. Figure A (Amendments to the Zoning Code Text) summarizes the procedure for amending the text of this Zoning Code. Figure B (Amendments to the Zoning Map (Direct Ordinance with a Site Plan Process)) and Figure C (Amendments to the Zoning Map (Authorization to Rezone with a Concept Zoning Plan)) summarize the procedures for amending the Zoning Map following the two processes described in Subsection 10-20.50.040.D.



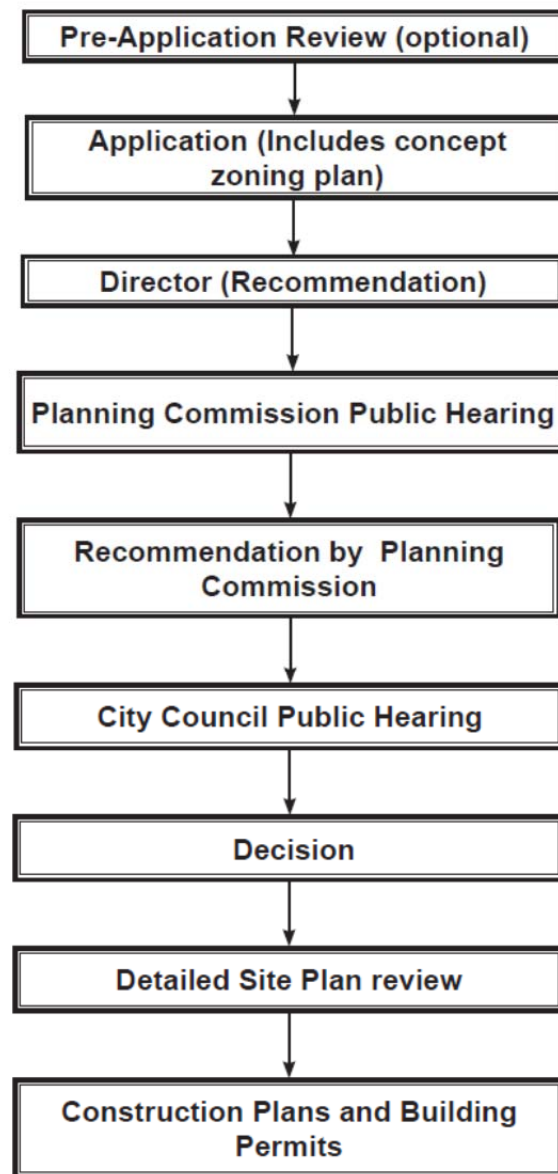
**Note:** Actions and public hearings by the Director, Planning Commission, or City Council will be completed in accordance with the review schedule on file with the Community Development Division.

Figure A. Amendments to the Zoning Code Text



**Note:** Actions and public hearings by the Director, Planning Commission, or City Council will be completed in accordance with the review schedule on file with the Community Development Division.

Figure B. Amendments to the Zoning Map (Direct Ordinance with a Site Plan Process)



**Note:** Actions and public hearings by the Director, Planning Commission, or City Council will be completed in accordance with the review schedule on file with the Community Development Division.

Figure C. Amendments to the Zoning Map (Authorization to Rezone with a Concept Zoning Plan)

(Section 10-20.50.040 amended by Ord. 2013-21, adopted Nov. 5, 2013 and Ord. 2016-07, adopted Feb. 16, 2016))



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**10-20.50.050 Appeal**

A property owner may appeal a dedication or exaction required as a condition of granting approval for the use, improvement, or development of real property to an administrative hearing officer designated in compliance with Section 10-20.80.040 (Appeals of Dedications and Exactions).

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**10-20.50.060 Reversion of Conditional Zoning Map Amendment Approval**

- A. The Council may approve a Zoning Map amendment conditioned upon a schedule for development of the specific use or uses for which a Zoning Map amendment is requested. If, at the expiration of this period, the property has not been improved for the use for which it was conditionally approved, the Council may take action to extend, remove, determine compliance with the schedule for development, or the Council may set a public hearing to consider a reversion of the property to its former zoning through legislative action.
- B. An applicant desiring a time extension must make an application to the Director to amend the conditions of the Zoning Map amendment approval at least 60 days prior to the date of the expiration of the original approval in compliance with the Review Schedule on file with the Planning Section. A conditional Zoning Map amendment approval subject to reversion may be extended only by going through the process for a Zoning Map amendment. Upon the expiration of the specified time period, if no application for amendment to the zoning conditions has been submitted, then the Planning Commission and Council, after notification by certified mail to the owner and applicant who requested the Zoning Map amendment approval, shall schedule public hearings to take administrative action to extend, remove, or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former zone. Public hearings before the Planning Commission and Council shall be noticed in compliance with the provisions of Section 10-20.30.070 (Notice of Public Hearings).
- C. In public hearings to consider amendments to the schedule for development, the applicant shall provide substantial evidence to the Planning Commission and Council that:
  - 1. In spite of the good faith efforts of the applicant, circumstances beyond the applicant's control have prevented the timely pursuit of the development and completion of the necessary requirements within the original authorized time period;
  - 2. The applicant has completed substantial property improvements, incurred substantial non-recoverable monetary expenditures or commitments, has completed supporting development-related improvements, or retained the services for preparation of supporting data in reliance upon the approval of the request; or

3. In either instance, the applicant is in good faith, continuing to diligently pursue implementation of the development to the degree authorized by the City.
- D. Changes to previously approved conditional Zoning Map amendment applications may be subject to the following:
1. Modification of previously required conditions of approval as warranted by interim changes in the area and/or to ensure continued compatibility with any improvements within the context area; or,
  2. Site plan revisions as necessary to comply with any ordinance or Zoning Code amendments that may have taken effect since the time of the original approval.

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**10-20.50.070    TNCP Zoning Map Amendments****A. Application Requirements**

An application for a Zoning Map amendment for a Traditional Neighborhood Community Plan (TNCP) shall follow the requirements of Section 10-30.80 (Traditional Neighborhood Community Plans). A Zoning Map amendment request to apply transect zones within a TNCP shall only occur after a request for a General Plan amendment to the Traditional Neighborhood or Mixed Use land use designation, if needed.

**B. Findings**

The Planning Commission and Council shall base their decision on a TNCP on the following findings:

1. The proposed development meets the intent and purpose of a TNCP established in Division 10-30.80 (Traditional Neighborhood Community Plans);
2. The proposed development is consistent with and conforms to the goals of the General Plan;
3. The proposed development will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity; and
4. The proposed development will promote or preserve environmental quality, conserve energy usage and energy resources (including for example, the protection of adequate sunlight for use of solar energy systems), and promote water conservation and reuse.

**C. Conditions for Zoning Map Amendment**

If the Council approves the application of transect zones within a TNCP, the Zoning Map shall be changed by ordinance. The Council may, as necessary, attach conditions that are reasonably determined to mitigate possible impacts from the proposed development.

**D. Application Requirements**

To ensure that the public's health, welfare and safety are preserved and that provision is made for harmonious and appropriate development consistent with the goals and objectives of the General Plan as amended, the Director may require submittal of the following information in addition to the requirements in Division 10-30.80 (Traditional Neighborhood Community Plans) and the requirements of the City's application form:

1. Space for public use, such as parks, schools, recreation areas and trails;
2. Coordination of street layout with existing or planned thoroughfares;
3. Adequate fire protection;
4. Additional mitigation measures to address issues of public safety and welfare, and environmental protection; and,
5. Any other information as may be determined necessary by the Director to complete an analysis and review of the TNCP.

The Director may waive in writing upon request of an applicant any of the required information if it is determined that such information is not applicable.

**E. Public Charrette Process**

A multi-day public design charrette is required as part of the Zoning Map amendment to apply transect zones within a TNCP, unless a multi-day public design charrette was conducted as part of a request for a General Plan amendment in which case the Director may waive this requirement. The required design charrette may be used as one method to fulfill the citizen review requirements of Section 10-20.30.060 (Neighborhood Meeting) or Section 10-20.30.070 (Additional Requirements for Citizen Outreach).

**F. Adoption of Development Plans**

The development plans (for example, the illustrative plan, regulatory plan or other plans used to describe and illustrate the development) and supporting documents (for example, a development agreement) submitted with the TNCP must be approved and adopted by the Council and included or referenced in the ordinance establishing the transect zones. All public and private development within the TNCP shall comply with the development plans and other supporting statements and documents as approved and adopted by the Council.

**G. Amendment Procedures**

Amendments to TNCP and applicable transect zones shall be in substantial conformance with the objectives of Division 10-30.80 (Traditional Neighborhood Community Plans) and the General Plan. A written application to amend one or more of the transect boundaries or regulations may be initiated by the property owner or the owner's agent or the Council.

1. The application shall be accompanied by a statement documenting the need for the amendment, any plans and other documents in support of the amendment as determined by the Director, and the required amendment application fee established in Appendix 2 (Planning Fee Schedule).
2. The Director shall determine if the amendment would result in a substantial change to the TNCP. A substantial change is one which:
  - a. Allows uses not otherwise permitted in the regulating plan for the TNCP or a portion of the TNCP;
  - b. Deviates from a TNCP policy such that the proposed layout, design and functionality of the TNCP is no longer possible or viable;
  - c. Increases or decreases the number of proposed residences per acre by 10 percent or more, or exceeds the maximum number of dwelling units permitted within the TNCP;
  - d. Varies the building height, lot coverage, building setbacks or other standards established in the form-based code by 10 percent or more of that delineated in the adopted regulating plan and form-based code for the TNCP;
  - e. As a consequence of more than one non-substantial change submitted concurrently, cumulatively results in a significant change in the objectives or goals of the TNCP as determined by the Director;
  - f. Results in a significant change in pedestrian or traffic circulation within the TNCP or in the surrounding area;
  - g. Could have significant impact on areas adjoining the TNCP;
  - h. Could have significant negative impacts on natural, heritage, cultural or architectural resources; or,
  - i. Results in a significant change in the TNCP transect zone boundaries from those approved for the original TNCP.
3. If the request is considered to be a substantial change, the Director shall bring the amendment request before the Planning Commission and Council following the procedures established in this Section 10-20.50.040 (Procedures). When a change to the originally approved TNCP is

determined to be substantial, the Director may require submittal of additional items, including but not limited to documentation (in written or map form) explaining the reason for the change, the benefits to the applicant and to the community resulting from the change, and any other information required to assist in the review of the amendment application.

4. The Director may administratively approve non-substantial amendments to the TNCP following the provisions of Section 10-20.40.090 (Minor Modifications to Development Standards).
5. When requested in writing by the applicant, the Director may authorize a delay in the plan amendment process.

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## Division 10-20.60: Nonconforming Provisions

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### Sections:

10-20.60.010	Purpose
10-20.60.020	Proof of Legal Nonconformity
10-20.60.030	Restrictions on Nonconforming Uses and Structures
10-20.60.040	Residential Exemptions
10-20.60.050	Loss of Nonconforming Status
10-20.60.060	Nonconforming Landscaping
10-20.60.070	Nonconforming Manufactured Home Parks
10-20.60.080	Nonconforming Outdoor Lighting
10-20.60.090	Nonconforming Parcels or Lots
10-20.60.100	Nonconforming Parking
10-20.60.110	Nonconforming Signs
10-20.60.120	Effect of Conditional Use Permit Requirements

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### 10-20.60.010 Purpose

#### A. Purpose

This Division provides regulations for nonconforming land uses, structures, parcels, landscaping, manufactured home parks, parking, signs, and outdoor lights that were lawful before the adoption or amendment of this Zoning Code, but which would be prohibited, regulated or restricted differently in compliance with the current regulations.

#### B. Intent

1. In order to limit the number and extent of nonconforming uses, structures, and parcels, created by adoption of this Zoning Code, it is the City's intent to generally allow nonconformities to continue until they are removed, but not to encourage their long term continuation. These regulations therefore are intended to curtail substantial investment in nonconformities and to bring about their eventual improvement or elimination in order to preserve the integrity of this Zoning Code and the character of the City.
2. Any nonconforming use, structure or parcel of land which lawfully existed as of the effective date of this Zoning Code and which remains nonconforming; and any use, structure or parcel of land which has become nonconforming as a result of the adoption of this Zoning Code, or any subsequent amendment to this Zoning Code, may be continued or maintained only in the manner and to the extent it existed at the time of adoption, amendment or extension of this Zoning Code, and in compliance with the terms of this Division.
3. It is further the intent of this Division that nonconformities shall not be altered, enlarged, expanded, extended, moved or reestablished after

abandonment or discontinuance or restored after involuntary destruction, except in compliance with this Division.

4. This Division shall not apply to any use or structure established in violation of the previously adopted Zoning Code (Ord. 1690, adopted April 8, 1991, as amended), or any previous version of the City's Zoning Code or amendments unless the use or structure presently conforms to the provisions of this Zoning Code.

(Section 10-20.60.010 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.60.020 Proof of Legal Nonconformity****A. Property Owner's Responsibility**

The property owner shall provide sufficient evidence to the satisfaction of the Director that the subject property is a legal nonconformity as specified in this Division.

**B. Appeal of Determination**

Any person, firm or corporation aggrieved by a decision of the Director's determination of nonconformity in interpreting, applying, or enforcing this Division, may file an appeal in compliance with the appeal provisions established in Division 10-20.80 (Procedures for Appeals).

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**10-20.60.030 Restrictions on Nonconforming Uses and Structures**

A legal nonconforming land use and the use of a legal nonconforming structure, may be continued, including transfers of ownership; provided, that their continuation shall comply with the requirements of this Section. See Section 10-20.60.040 (Residential Exemptions) for exceptions regarding certain residential uses and structures.

**A. Nonconforming Uses**

The continuance of a legal nonconforming use shall be allowed subject to the following provisions:

**1. Change of Ownership**

Change of management, ownership or tenancy of a nonconforming use shall not affect its nonconforming status; provided that the use and intensity of use, as determined by the Director, does not change.

**2. Expansion of a Nonconforming Use**

Except as provided in this Division, a nonconforming use shall not be expanded or extended beyond the floor area or lot area that it occupied on the effective date of this Zoning Code or the effective date of any amendment to this Zoning Code rendering such use nonconforming.



3. **Conversion of a Nonconforming Use**

If a nonconforming use is converted to a conforming use, no nonconforming use may be resumed.

4. **Changes to a Nonconforming Use**

A nonconforming use may be changed to a permitted use or a conditional use for the zone in which the property is located. A nonconforming use shall not be established or replaced by another nonconforming use, nor shall any nonconforming use be expanded or changed, except as provided in this Division.

5. **Single- or Multi-family Structures**

A nonconforming use operating within a single- or multi-family structure may only be replaced by a conforming use or another nonconforming use that is the same as or similar to the previous nonconforming use, provided not more than 180 days have passed since the cessation of the previous nonconforming use, and further provided the replacement nonconforming use does not create new impacts or an increase in intensity of the land use.

B. **Nonconforming Structures**

1. **Alteration**

A nonconforming structure shall not be enlarged in any manner or undergo any structural alteration having the effect of increasing or extending any nonconformity unless to make it a conforming structure unless all the following provision are met:

- a. The enlargement or alteration conforms to the requirements of these regulations or does not increase the nonconformity;
- b. The enlargement or alteration does not increase the nonconforming "footprint" of the structure or add usable square feet to the nonconforming portion(s) of the structure, unless approved by the Director; and,
- c. The use of the structure is conforming.

2. **Moving a Nonconforming Structure**

A nonconforming structure shall not be moved in whole or in part to another location unless the structure or enlargement conforms to the standards for the zone to which the structure is moved. Moving of the structure shall comply with the requirements of Section 10-20.40.040 (Building Relocation Requests).

3. **Ordinary Maintenance and Repairs**

Reasonable repairs and alterations as determined by the Director may be made to a nonconforming structure.

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**10-20.60.040 Residential Exemptions**

An involuntarily damaged or destroyed nonconforming single- or multi-family dwelling unit may be reconstructed or replaced with a new structure within the same footprint (including pre-existing nonconforming setbacks), height and number of dwelling units, in compliance with current Building and Fire Code requirements.

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**10-20.60.050 Loss of Nonconforming Status****A. Termination by Discontinuance****1. Nonconforming Use**

If a nonconforming use is discontinued for 180 or more consecutive calendar days, then that use shall be deemed abandoned and lose its legal nonconforming status which cannot be renewed or reestablished. Any subsequent use of the parcel of land or structure shall conform to the regulations of the zone in which it is located.

**2. Affordable Rental Housing Units**

None of the restrictions specified in this Subsection shall apply if doing so would decrease the number of low-income rental housing units. The City will identify if the property qualifies as low-income rental housing based on federal, State, or local subsidies or program participation.

**B. Termination by Destruction**

Nonconforming status shall terminate if a nonconforming structure, or a conforming structure occupied by a nonconforming use, is involuntarily damaged or destroyed as a result of an accident or by earthquake, fire, flood, windstorm, snowstorm or other abnormal and identifiable event, except as follows:

**1. Fifty Percent or Less**

If the cost of repairing or replacing the damaged portion of the structure is 50 percent or less of the appraised value of the structure immediately before the damage (except as provided in Section 10-20.60.040 (Residential Exemptions)), the structure may be restored to its nonconforming condition and the use continued, provided that a Building Permit is secured, reconstruction is started within 180 days from the date of the damage, and such reconstruction is diligently pursued to completion.

## 2. Exceeds 50 Percent

- a. Except as provided in Section 10-20.60.040 (Residential Exemptions), if the cost of repairing or replacing the damaged portion of the structure exceeds 50 percent of the appraised value of the structure immediately before the damage, or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full compliance with the applicable regulations for the zone in which it is located and the nonconforming use shall not be resumed.
- b. This limitation shall not apply if doing so would decrease the number of affordable rental housing units available in this City. The City will identify if the property qualifies as low-income rental housing based on federal, State or local subsidies or program participation.

## 3. Appraised and Estimated Values

- a. All appraised values referred to in this Section shall be determined by a State licensed appraiser and confirmed by the Building Official.
- b. Estimates of the cost of repairing or replacing the damaged portion of the structure for purposes of this Section shall be made by the owner for review and approval by the Building Official. Estimates shall be based on the minimum cost of construction in compliance with the Building Code.

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### 10-20.60.060 Nonconforming Landscaping

Whenever a nonconforming use, structure or lot is abandoned for a period of 180 consecutive days and then changed to a new use according to the requirements of Section 10-20.60.030 (Restrictions on Nonconforming Uses and Structures), then landscaping shall be installed and shall be reviewed and brought into compliance as necessary for the entire building, structure or premises, to the maximum extent feasible as determined by the Director.

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### 10-20.60.070 Nonconforming Manufactured Home Parks

- A. Existing manufactured home parks located outside of the MH Zone prior to the effective date of this Zoning Code are considered legal nonconforming uses. All new or replaced manufactured home units placed within legal nonconforming manufactured home parks shall meet the standards provided in Subsection C below.
- B. A nonconforming manufactured home may be replaced by a park home permitted in accordance with Building Code requirements.

- C. A non-conforming manufactured home may not be replaced except as follows:
1. Proof of State approval is required for all manufactured homes manufactured prior to 1976.
  2. A manufactured home of the same or lesser floor area may replace a non-conforming manufactured home.
  3. A manufactured home of larger floor area may replace a non-conforming manufactured home in a manufactured home park provided that the standards provided in Subsections 4 and 5, below, can be met.
  4. The minimum space between manufactured homes or between a manufactured home and a building shall not be less than 10 feet at any point.
  5. The minimum space between a manufactured home and the property lines shall be five feet.

(Section 10-20.60.070 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.60.080 Nonconforming Outdoor Lighting****A. General**

1. If at the effective date of this Zoning Code, or of any extension resulting from annexation to the City, any existing outdoor lighting which is being used in a manner or for a purpose which is otherwise lawful, but does not comply with the provisions of Division 10-50.70 (Outdoor Lighting Standards), shall be deemed legal but nonconforming, and shall be allowed to continue provided such fixtures are extinguished between the hours of midnight and sunrise by an automatic shut-off device.
2. No modification or replacement shall be made to a nonconforming outdoor light fixture unless the fixture thereafter conforms to the provisions of Division 10-50.70 (Outdoor Lighting Standards).
3. Whenever a nonconforming use, structure or lot is abandoned for a period of 180 consecutive days and then changed to a new use according to the requirements of Section 10-20.60.030 (Restrictions on Nonconforming Uses and Structures), then any existing outdoor lighting shall be reviewed and brought into compliance as necessary for the entire building, structure or premises.

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**10-20.60.090 Nonconforming Parcels or Lots**

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**A. Legal Building Site**

No construction shall occur on a parcel or lot that does not comply with the applicable area, depth or width requirements of this Zoning Code unless it meets at least one of the following criteria, as documented by the applicant to the satisfaction of the Director.

**1. Approved Subdivision**

The parcel or lot was created by a recorded subdivision as a legal building site (City Code Title 11 (Subdivision and Land Split Regulations));

**2. Individual Parcel or Lot Legally Created by Deed**

The parcel or lot is under one ownership and was legally created by a recorded deed as a legal building site before the effective date of this Zoning Code or the amendment that made the parcel or lot nonconforming; or,

**3. Partial Government Acquisition**

The parcel or lot was created in compliance with the provisions of this Zoning Code, but was made nonconforming when a portion was acquired by a governmental entity so that the parcel or lot size is decreased not more than 20 percent and the setback facing a public right-of-way was decreased not more than 50 percent. This provision does not apply if the government paid severance damages for loss of building rights.

**B. Subdivision of a Nonconforming Parcel or Lot**

1. No subdivision or lot line adjustment shall be approved that would result in the nonconformity of an existing parcel or lot, or any nonconforming use on the parcel.
2. If two or more lots or parcels with contiguous boundaries are owned by the same person, and if all or part of the lots or parcels do not meet the development standards of the zone, then the lots or parcels involved shall be considered to be an undivided parcel. No portion of said undivided parcel shall be used if it does not meet the development standards established in this Zoning Code, and the said undivided parcel or lot shall not be divided leaving any remaining lot or parcel which does not meet the development standards in this Zoning Code.
3. Owners of single, nonconforming lots or parcels, or lots or parcels combined in compliance with Subsection 2 above that are nonconforming, may be granted a Building Permit upon approval by the Director. In granting the approval, the Director may authorize only development that complies with all relevant zoning requirements, except for minimum area requirements for the parcel and its dimensions.

(Section 10-20.60.090 amended by Ord. 2016-07, adopted Feb. 16, 2016)

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**10-20.60.100 Nonconforming Parking**

Whenever a nonconforming use, structure, or lot is abandoned for a period of 180 consecutive days and then changed to a new use according to the requirements of Section 10-20.60.030 (Restrictions on Nonconforming Uses and Structures), parking facilities shall be brought into compliance with Division 10-50.80 (Parking Standards) to the maximum extent feasible as determined by the Director.

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**10-20.60.110 Nonconforming Signs****A. General**

If at the effective date of this Zoning Code, or of any extension resulting from annexation to the City, any sign which is being used in a manner or for a purpose which is otherwise lawful, but does not comply with the provisions of Division 10-50.100 (Sign Standards), shall be deemed legal but nonconforming.

**B. Maintenance, Repairs, Alterations and Removal**

1. Nonconforming signs are required to be maintained in good condition in compliance with Section 10-50.100.110 (Nonconforming Signs). Maintenance of legal nonconforming signs shall be consistent with applicable Arizona law. Nothing in this Zoning Code shall affect existing property or the right to its continued use for the purpose used at the time this Zoning Code takes effect, nor to make any reasonable repairs or alterations. A legal nonconforming sign that has been damaged to the extent of more than 50 percent of the cost of reconstruction of the sign structure or is temporarily or permanently removed by any means, including "an act of God," shall be removed or rebuilt, repaired or replaced only in compliance with the provisions of this Division 10-50.100 (Sign Standards).
2. Removal of a nonconforming sign, or replacement of a nonconforming sign with a conforming sign, is required when the use of the sign and/or the property on which the sign is located has been abandoned, ceased operations, become vacant, or been unoccupied for a period of 180 consecutive days or more as long as the period of non-use is attributable at least in part to the property owner, tenant, or other person or entity in control of the use. For purposes of this Section, rental payments or lease payments and taxes shall not be considered as a continued use. In the event this should occur, such conditions will be considered as evidence of abandonment, requiring removal of such sign by the owner of the property, his/her agent, or person having the beneficial use of the

property, building or structure upon which such sign or sign structure is erected within 30 days after written notification from the Director. If, within the 30 day period, such sign(s) is (are) not removed, enforcement action consistent with A.R.S. § 9.462.02 shall be pursued.

3. As an incentive for the replacement of a nonconforming freestanding sign with a new sign that is in closer conformance with the area and height standards of Section 10-50.100.060 (Permanent Signs), a new freestanding sign may be approved and erected that is reduced in height and area by 25 percent of the existing nonconforming sign, or the area and height standard established in Section 10-50.100.060 (Permanent Signs), whichever is larger. For example, an existing nonconforming Type A freestanding sign has an area of 120 sq. ft. and a height of 22 feet. The Zoning Code only allows a Type A freestanding sign to have an area of 40 sq. ft. and a height of 10 feet. The new sign, therefore, may be  $120 \times 25\% = 30$  sq. ft.;  $120 - 30 = 90$  sq. ft. in area. The height of the new sign would be determined as  $22 \times 25\% = 5.5$  feet;  $22 - 5.5 = 16.5$  feet high. The new replacement sign shall only be located in the same place as the former nonconforming sign. Any nonconforming sign modified in accordance with the provisions of this Subsection shall still be considered a nonconforming sign until full compliance with the area and height standards of Section 10-50.100.060 (Permanent Signs) has been achieved.
4. When an existing nonconforming Type A freestanding sign exists on a property with a street frontage that is 400 linear feet or more in length, a property owner may continue to use such sign subject to the provisions of this Section. To encourage the removal of the existing nonconforming sign, a Type B freestanding sign may be permitted that is designed and constructed to the full extent of the area and height standards established in Table 10-50.100.060.A (Standards for Permanent Signs by Use), provided the existing nonconforming Type A sign is either removed or redesigned in compliance with the standards for a Type A sign
5. Sign faces may be replaced on nonconforming signs.
6. Illegal signs shall not be considered to be nonconforming signs.

(Section 10-20.60.110 amended by Ord. 2014-27, adopted Nov. 18, 2014)

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## **10-20.60.120 Effect of Conditional Use Permit Requirements**

### **A. Absence of Conditional Use Permit**

A use lawfully existing without the approval of a Conditional Use Permit that would be required by this Zoning Code shall be deemed conforming only to the extent of its previous lawful use (e.g., maintaining the same site area boundaries or hours of operation). Any change in use would require the approval of a Conditional Use Permit, if applicable.

**B. Previous Conditional Use Permit in Effect**

A use that was authorized by a Conditional Use Permit but is not allowed by this Zoning Code in its current location may continue, but only in compliance with the conditions of approval of the original Conditional Use Permit.



## Division 10-20.70: Variances

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### Sections:

- 10-20.70.010 Purpose
- 10-20.70.020 Filing of Applications
- 10-20.70.030 Board of Adjustment Review
- 10-20.70.040 Board of Adjustment Decision
- 10-20.70.050 Standards for Granting Variances
- 10-20.70.060 Conditions
- 10-20.70.070 Effect of Approval or Denial
- 10-20.70.080 Appeals From the Board of Adjustment

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### **10-20.70.010 Purpose**

The purpose of a Variance is to provide a means whereby the literal terms of these regulations need not be applied where circumstances or conditions not created by or in control of a property owner have created practical difficulties or unnecessary hardships that undermine the spirit of these regulations or undermine public safety and welfare.

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### **10-20.70.020 Filing of Applications**

A petition for a Variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property. An application for a Variance shall be submitted to the Director or the Zoning Code Administrator in writing on a form prescribed by the City in compliance with Section 10-20.30.020 (Application Process). The application shall include the information and materials specified in the checklist for Variances, together with the required fee established in Appendix 2 (Planning Fee Schedule).

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### **10-20.70.030 Board of Adjustment Review**

An application for a Variance shall be reviewed by the Board of Adjustment in compliance with the Review Schedule on file with the Planning Section. The recommendation of the Director or the Zoning Code Administrator shall be submitted to the Board of Adjustment prior to the public meeting and shall set forth whether the Variance should be granted or denied and the grounds for such recommendation.

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**10-20.70.040 Board of Adjustment Decision**

The Board of Adjustment shall review the application and the recommendation of the Director or the Zoning Code Administrator and shall conduct a public meeting on the application. At the conclusion of the public meeting, the Board of Adjustment shall review the application in light of the standards set forth in Section 10-20.70.050 (Standards for Granting Variances) below, the testimony at the public meeting, and the record. The Board of Adjustment shall then grant the Variance, grant the Variance subject to specified conditions, or deny the Variance.

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**10-20.70.050 Standards for Granting Variances**

A Variance shall only be granted if the applicant demonstrates all of the following:

- A. That, because of special circumstances applicable to the property, including its size, shape, topography, location or surroundings, the strict application of these regulations will deprive such property of privileges enjoyed by other property of the same classification in the same zone;
- B. That a grant of a Variance will be subject to conditions to ensure that the adjustment authorized is the minimum variation needed and that it will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;
- C. The special circumstances applicable to the property are not self-imposed by any person having an interest in the property; and,
- D. The Variance will not allow the establishment of a use which; (1) is not otherwise permitted in the zone, (2) would result in the extension of a non-conforming use or structure, or (3) would change the terms of the zone of any or all of the subject property.

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**10-20.70.060 Conditions**

Issuance of a Variance may be made subject to such conditions as are necessary to carry out the purposes of these regulations and ensure that the Variance authorized shall not constitute a granting of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located. Conditions serving to prevent or minimize adverse effects upon other property in the neighborhood shall include, but shall not be limited to: limitations on size and location, hours of operation, requirements for landscaping or buffer yards, lighting, and ingress and egress.

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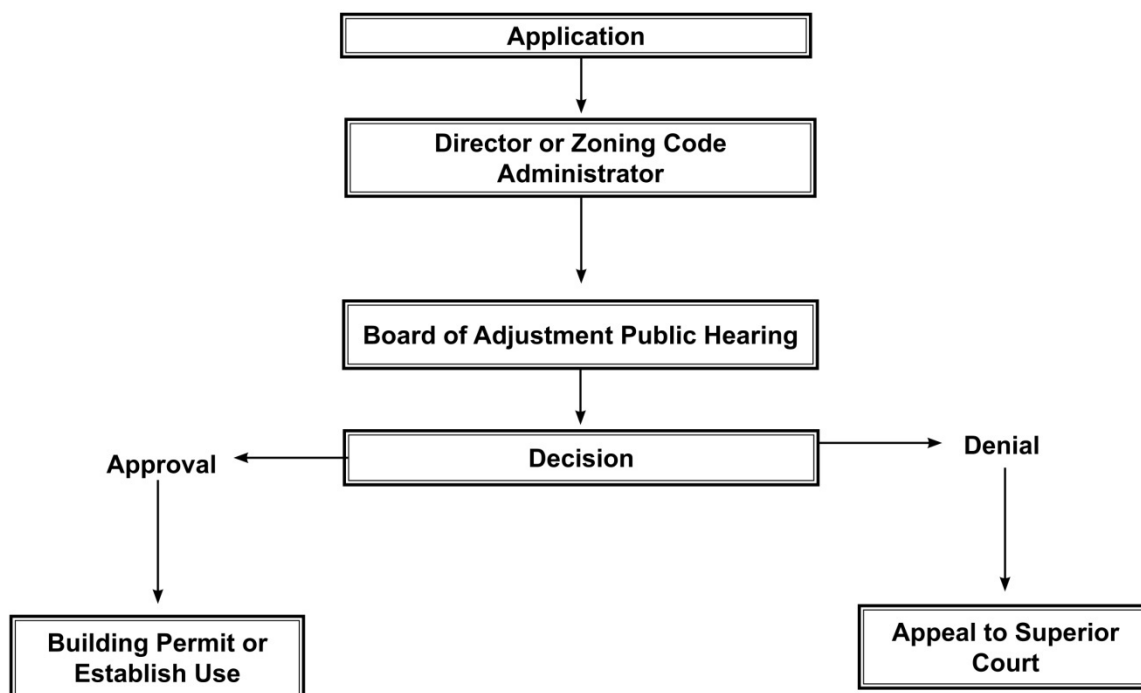
**10-20.70.070     Effect of Approval or Denial**

- A. After the Board of Adjustment approves a Variance, the applicant shall be required to follow the procedures of this Chapter for any additional applicable permits in order to proceed with the development of the subject property. Any Variance granted shall be void if the use is not commenced or if a Building Permit has not been obtained within one year of the permit being granted or within the time stipulated at the time the Variance was approved. All subsequent orders, decisions, determinations and interpretations made by the City in compliance with those procedures shall be consistent with the Variance granted to the applicant. Any request for extension of an approved Variance shall be processed as a new request in compliance with this Division. No request for Variance which has been denied by the Board of Adjustment may be resubmitted as substantially the same request for a period of one year from the date of denial.
- B. If a structure is erected on a parcel for which a Variance has been approved, and the parcel is the subject of a Zoning Map amendment, such structure may become a legal non-conforming structure if following adoption of the Zoning Map amendment the structure violates the terms of the new zone.
- C. Figure A (Variances) summarizes the procedure for obtaining a Variance.

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**10-20.70.080     Appeals from the Board of Adjustment**

An applicant or any other person aggrieved by the decision of the Board of Adjustment or any taxpayer, officer or department of the City who is affected by the decision of the Board of Adjustment may appeal that decision directly to the Superior Court by filing a complaint for special action within 30 days after the Board has rendered its decision. Filing the complaint does not automatically stay proceedings on the decision sought to be reviewed, but the court may grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.



**Note:** Actions and public hearings by the Director, Zoning Code Administrator, or Board of Adjustment will be completed in accordance with the review schedule on file with the Community Development Department.

Figure A. Variances

## Division 10-20.80: Procedures for Appeals

### Sections:

- 10-20.80.010 Purpose
- 10-20.80.020 Appeals of Interpretations by the Zoning Code Administrator and Director
- 10-20.80.030 Appeals of Permits and Other Approvals
- 10-20.80.040 Appeals of Dedications and Exactions

### 10-20.80.010 Purpose

- A. This Division establishes the procedures for appeal of administrative and interpretative decisions of administrative officers and determinations rendered by the Zoning Code Administrator, Director, Historic Preservation Officer, Heritage Preservation Commission and Planning Commission.
- B. Table A identifies the Review Authority responsible for reviewing and making decisions on each type of application required by this Zoning Code. Any action taken by the highest Review Authority as provided in Table A (Review Authorities), can be appealed by special action to Superior Court in compliance with the Arizona Revised Statutes and the Arizona Rules of Procedure for Special Actions.

**Table 10-20.80.010.A: Review Authorities**

Type of Action	Code Chapter/ Division or Section	Role of Review Authority		
		Staff Position	Board or Commission(s)	Higher Authority
Legislative Actions:				
Amendments – Zoning Code Text	10-20.50	Director – Recommend	Planning – Recommend	Council – Decision
Amendments – Zoning Map	10-20.50	Director – Recommend	Planning – Recommend	Council – Decision
Dedication or Exaction	10-20.80.040	Director, Planning, or Council Impose (depending on the level of application review)		
			Administrative Hearing Officer - Appeal	Superior Court – Decision

**Table 10-20.80.010.A: Review Authorities**

Type of Action	Code Chapter/ Division or Section	Role of Review Authority		
		Staff Position	Board or Commission(s)	Higher Authority
Heritage Preservation designation	10-30.30	Historic Preservation Officer (HPO) – Recommend	Heritage Preservation and Planning – Recommend	Council – Decision
<b>Administrative Actions:</b>				
Completeness Review	10-20.30.020	Director – Decision	Community Development Director – Appeal	--
Interpretations	10-20.80.020	Zoning Code Administrator - Decision	Board of Adjustment – Appeal	Superior Court – Appeal
Minor Modifications	10-20.40.090	Director or Zoning Code Administrator – Decision	Board of Adjustment – Appeal	Superior Court – Appeal
<b>Planning Permits and Approvals:</b>				
Certificate of Appropriateness	10-30.30.060	HPO – Recommend	Heritage Preservation – Decision	Council – Appeal
Certificate of Economic Hardship	10-30.30.060	HPO – Recommend	Heritage Preservation – Decision	Council – Appeal
Certificate of No Effect	10-30.30.060	HPO – Recommend	Heritage Preservation – Decision	Council – Appeal
Conditional Use Permits	10-20.40.050	Director – Recommend	Planning – Decision	Council – Appeal
Cultural Resource Studies (Letter Reports)	10-30.30.050	HPO - Decision	Heritage Preservation - Appeal	Council – Appeal
Home Occupation Permits	10-20.40.070	Zoning Code Administrator – Decision	Board of Adjustment – Appeal	Superior Court – Decision
Minor Improvement Permit	10-20.40.080	Zoning Code Administrator - Decision	Board of Adjustment – Appeal	Superior Court – Appeal

Table 10-20.80.010.A: Review Authorities				
Type of Action	Code Chapter/ Division or Section	Role of Review Authority		
		Staff Position	Board or Commission(s)	Higher Authority
Outdoor Lighting Permits	10-20.40.100	Zoning Code Administrator – Decision	Board of Adjustment – Appeal	Superior Court – Decision
Sign Permits	10-20.40.120 & .130	Zoning Code Administrator – Decision	Board of Adjustment – Appeal	Superior Court – Decision
Site Plan Review – Development Regulations and Standards	10-20.40.140	Director – Decision	Board of Adjustment – Appeal	Superior Court – Decision
Site Plan Review – Supplemental Guidelines	10-20.40.140	Director – Decision	Planning Commission – Appeal	Council – Appeal
Temporary Use Permits	10-20.40.150	Director – Decision	Board of Adjustment – Appeal	Superior Court – Decision
Variances	10-20.70	Zoning Code Administrator – Recommend	Board of Adjustment – Decision	Superior Court – Appeal

## 10-20.80.020 Appeals of Interpretations by the Zoning Code Administrator and Director

### A. Purpose

This Section establishes the procedures for appeals from decisions of administrative officers to ensure that these regulations are administered properly and consistently with the policies adopted by the City.

### B. Decisions which may be Appealed

Appeals may be heard by the Board of Adjustment where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of these regulations.

### C. Filing of Appeal

1. An appeal may be initiated by any person aggrieved by a decision of the Zoning Code Administrator in the enforcement of this Zoning Code or by any officer, department, board or bureau of the City affected by that decision. Appeals of dedications or exactions required as a condition of granting approval for the use, improvement or development of real property, however, shall follow the appeal procedures set forth in Section 10-20.80.040 (Appeals of Dedications and Exactions).
2. A notice of appeal shall be filed with the Zoning Code Administrator and with the Board of Adjustment within 10 calendar days of the date of the decision, determination or interpretation, specifying the grounds for such appeal. The notice of appeal shall be on a form prescribed for this purpose provided by the City. The Zoning Code Administrator may waive or extend this deadline only upon determining that the person filing the appeal received no actual or constructive form of notice of the order, requirement, decision, or determination being appealed. The notice of appeal shall be accompanied by a nonrefundable filing fee as established in Appendix 2 (Planning Fee Schedule). Failure to file the notice of appeal and fee in a timely manner shall constitute a waiver of any rights to appeal in compliance with this Section.
3. Upon the filing of an appeal, the Zoning Code Administrator shall transmit all administrative papers, records and other information regarding the subject matter of the appeal to the Board of Adjustment.
4. Except as provided below, the filing of an appeal shall stay any proceedings in furtherance of the contested action. The Zoning Code Administrator may certify in writing to the Board of Adjustment that, because of facts stated in the certificate, a stay imposes an imminent peril to life or property. The Board of Adjustment shall then review such appeal application and may override the stay of further proceedings. Proceedings shall not be stayed if the appeal requests relief which has previously been denied by the Board of Adjustment except in compliance with a court order.

### D. Review

An appeal authorized in compliance with the provisions of this Section shall be submitted to the Zoning Code Administrator and shall be reviewed by the Board of Adjustment at a public hearing in compliance with the Review Schedule on file with Planning Division. The Zoning Code Administrator shall prepare a recommendation in the form of a staff report which shall be submitted to the Board of Adjustment prior to the scheduled public hearing. The staff report shall set forth whether the appeal should be granted or denied, and the grounds for such recommendation.



**E. Notification**

Public notification of an appeal of a decision of an administrative officer shall be provided in compliance with Section 10-20.30.080 (Notice of Public Hearings).

**F. Board of Adjustment Public Meeting**

The Board of Adjustment shall conduct a public meeting on the requested appeal following the procedures set forth in the Rules of Procedure for the Board of Adjustment.

**G. Board of Adjustment Decision**

The Board of Adjustment shall review the application and the recommendation of the Zoning Code Administrator and, following a public meeting, the Board of Adjustment shall reverse or modify the order, decision, determination or interpretation under appeal only upon finding an error in the application of these regulations on the part of the administrative officer rendering the order, decision, determination or interpretation. The Board of Adjustment shall grant the appeal, grant the appeal subject to specified conditions, or deny the appeal. In modifying the order, decision, determination, or interpretation, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken. The motion in support of denial of the appeal and the record of the public meeting shall state the reasons and findings of fact the Board of Adjustment used in reaching its decision. (Refer to Section 10-20.30.090 (Findings Required)).

**H. Effect of Reversal or Modification of Administrative Decision**

If the Board of Adjustment reverses or modifies an order, decision, determination, or interpretation of an administrative officer, the appellant shall be required to follow the procedures of this Zoning Code for the approval of any permits in order to proceed with the development of the subject property. All orders, decisions, determinations, and interpretations made by the Review Authority as part of those procedures shall be consistent with the reversal or modification granted to the appellant.

**I. Appeal from the Board of Adjustment**

An appellant or any other person aggrieved by the decision of the Board of Adjustment, or a taxpayer, officer, or department of the City affected by the decision, may appeal the decision directly to the Superior Court by filing a complaint for special action within 30 days after the Board of Adjustment has rendered its decision. Filing the complaint shall not automatically stay proceedings on the decision sought to be reviewed, but the Court may grant a stay on application. The Court shall affirm or reverse, in whole or in part, or modify the decision reviewed.

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**10-20.80.030 Appeals of Permits and Other Approvals****A. Purpose**

This Section establishes procedures for review of determinations rendered by the Zoning Code Administrator or Director regarding various permits and

decisions on site plans, and determinations of the Planning Commission, Heritage Preservation Commission or Historic Preservation Officer.

**B. Permits Issued and Approvals Granted by the Zoning Code Administrator or Director**

A decision of the Zoning Code Administrator or Director regarding any of the following, may be appealed to the Board of Adjustment in compliance with the appeal procedures established in Section 10-20.80.020 (Appeals of Interpretations by the Zoning Code Administrator and Director):

1. Home Occupation Permit;
2. Minor Improvement Permit;
3. Outdoor Lighting Permit;
4. Sign Permit (Temporary or Permanent); and,
5. Temporary Use Permit.

**C. Appeal of a Decision by the Director**

1. A decision of the Director regarding the application or interpretation of a regulation or standard of this Zoning Code, may be appealed to the Board of Adjustment in compliance with the appeal procedures established in Section 10-20.80.020 (Appeals of Interpretations by the Zoning Code Administrator).
2. A decision of the Director regarding the interpretation or application of a Design Guideline (See Appendix 1.1 (Design Guidelines)) provided in this Zoning Code, may be appealed to the Planning Commission in compliance with the appeal procedures established in this Section.
3. A decision of the Director regarding the completeness of a development application may be appealed in writing to the Director.

**D. Appeal of a Decision by the Historic Preservation Officer**

Any decision of the Historic Preservation Officer may be appealed by any person aggrieved by such decision to the Heritage Preservation Commission in compliance with the appeal procedures established in this Section.

**E. Appeal of a Decision by the Heritage Preservation Commission**

Any decision of the Heritage Preservation Commission may be appealed by any person aggrieved by such decision to the Council in compliance with the appeal procedures established in this Section.

**F. Appeal of a Decision by the Planning Commission**

1. A decision of the Planning Commission on a Conditional Use Permit may be appealed to the Council by any person aggrieved by such decision.
2. A recommendation of the Planning Commission to the Council may not be appealed.

**G. Timing and Form of Appeal**

An appeal shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal.

1. The pertinent facts and the basis for the appeal shall include, at a minimum, the specific grounds for the appeal, what is the alleged error or abuse of discretion by the previous Review Authority (e.g., the Planning Commission, Heritage Preservation Commission, Director, or Historic Preservation Officer) in the consideration and action on the matter being appealed, and/or where the decision was not supported by the evidence on the record.
2. The appeal shall be filed with the Director or City Clerk, as applicable, within 10 days following the actual date the decision was rendered.
  - a. Appeals addressed to the Council shall be filed with the City Clerk;
  - b. Appeals addressed to the Board of Adjustment shall be filed with the Zoning Code Administrator;
  - c. Appeals addressed to the Heritage Preservation Commission shall be filed with the Historic Preservation Officer; and,
  - d. Appeals addressed to the Planning Commission shall be filed with the Director.
3. The appeal shall be accompanied by a non-refundable filing fee identified in Appendix 2 (Planning Fee Schedule).
4. Once an appeal is filed by an aggrieved person, any action on the associated development is suspended until the appeal is processed and a final decision is rendered by the applicable Review Authority unless otherwise specified in this Zoning Code.

#### **H. Report and Scheduling of Hearing**

1. When an appeal has been filed, the Director, Zoning Code Administrator or as applicable the Historic Preservation Officer, shall prepare a report on the matter, including all of the application materials in question and schedule the matter for a public hearing by the appropriate Review Authority, identified in Table A (Review Authorities) above.
2. Notice of the hearing by the Review Authority shall be provided in compliance with Section 10-20.30.080 (Notice of Public Hearings).
3. Any interested party may appear and be heard regarding the appeal.

#### **I. Decision**

1. In deciding an appeal, the Review Authority considering the appeal shall use the same standards for decision-making required for the original decision, and shall not hear or consider any evidence of any kind other than the evidence received from the previous Review Authority, or any argument on the merits of the case other than that contained in the notice of appeal, unless it sets the matter for hearing before itself, as provided in this Division, and gives the same notice of hearing as is required in compliance with Section 10-20.30.080 (Notice of Public Hearings).
2. If new or different evidence is presented on the appeal, the new information shall be included with a revised submittal and presented to the original Review Authority for further review and consideration.
3. In addition, the Review Authority may remand the matter to the original Review Authority for reconsideration, for additional information, or to cure a deficiency in the record or proceeding. The Review Authority shall render its decision within 30 days of the date the hearing is closed unless State law requires a shorter deadline.
4. In the event of a tie vote by the Review Authority on an appeal, the decision being appealed shall stand.
5. **Provision of Notice of Decision**
  - a. A notice of the Review Authority's final decision to the appellant and to any person who specifically requested notice of the Review Authority's final action.
  - b. The notice of the final decision shall contain applicable findings, conditions of approval, and the reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety or general welfare of the City.

**J. Effective Date of Review Authority's Decision on an Appeal**

A decision of the Review Authority is final and effective after 5:00 p.m. on the 15th day following the actual date the decision is rendered (except as provided in Section 10-20.80.020.I), when no appeal of the decision has been filed in compliance with this Division.

**K. Judicial Review**

No person shall seek judicial review of a City decision on a planning permit or other matter in compliance with this Zoning Code until all appeals to appropriate review authorities have first been exhausted in compliance with this Division.

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**10-20.80.040 Appeals of Dedications and Exactions**

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**A. Right to Appeal**

An applicant may appeal the following actions to an administrative hearing officer designated in compliance with Subsection C below.

1. A dedication or exaction required as a discretionary administrative, but not legislative, condition of granting approval for the use, improvement or development of real property.
2. The adoption or amendment of a zoning regulation that creates a taking of property in violation of A.R.S. § 9-500.13.

**B. Notice of Right to Appeal Administrative Decision**

The City official whose decision to require a dedication or exaction is appealable in compliance with Subsection A shall give written notice of the final decision and of the right of the applicant to an appeal of the requirement. The City shall not request the applicant to waive the right of appeal or trial de novo at any time during the consideration of the applicant's request.

**C. Appointment of Hearing Officer**

The City Manager, in consultation with the City Attorney, shall designate hearing officers to hear appeals required by A.R.S. § 9-500.12. The hearing officer shall not be employed in the same department as the City official whose decision is being appealed.

**D. Appeal Procedures****1. Filing of the Appeal**

The applicant who intends to exercise their right to contest the requirement of a dedication or exaction, as provided in this Section, shall file or mail a written request for appeal to the Director, who will transmit the request for appeal to the designated hearing officer. The appeal request shall be mailed or filed within 30 days after notice is given of the final determination of the development or exaction requirement in compliance with Subsection B. The request for appeal may be in the form

of a letter or other written communication, but shall give reasonable notice that the applicant requests an appeal of a dedication or exaction requirement and of the particular dedication or exaction being appealed.

**2. Time for Hearing; Notice**

After receipt of an appeal in compliance with this Section, the hearing officer shall schedule a time for the appeal to be heard not later than 30 days after receipt, unless the applicant consents to an extension of time. The applicant shall be given at least ten days notice of the time when the appeal will be heard unless the applicant agrees to a shorter time period.

**3. Conduct of Hearing**

In all proceedings in compliance with this Section, the City has the burden of establishing an essential nexus between the dedication or exaction and a legitimate government interest and that the proposed dedication or exaction is roughly proportional to the impact of the proposed use, improvement, or development. If more than a single parcel is involved, this requirement applies to the entire property.

**4. Hearing Procedures**

The hearing officer shall hear such testimony and consider such evidence as is relevant to the determination of such issues. The hearing officer shall not be bound by technical rules of evidence or procedures in conducting the hearing.

**5. Hearing Officer's Decision**

The hearing officer shall decide the appeal within five working days after the appeal is heard. If the City does not meet its burden in compliance with Subsection D.3 above, the hearing officer shall either:

- a. Modify or delete the requirement of the dedication or exaction appealed in compliance with Subsection A.1; or,
- b. In the case of a zoning regulation appealed in compliance with Subsection A.2, the hearing officer shall transmit a recommendation to the Council. The Council may accept, modify or deny the recommendation of the hearing officer.

**E. Appeal to Superior Court**

If the hearing officer modifies or affirms the requirement of the dedication or exaction, an applicant aggrieved by the decision of the hearing officer may appeal the decision to the Superior Court, at any time within 30 days after the hearing officer has rendered a decision, by following the procedures set forth in the Arizona Revised Statutes.

# Division 10-20.90: Annexations

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## Sections:

- 10-20.90.010 Purpose
- 10-20.90.020 Initiation of Annexations
- 10-20.90.030 Procedures

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### **10-20.90.010 Purpose**

The purpose of this Division is to provide procedures that comply with and implement A.R.S. § 9-471 et. seq., the General Plan, and other pertinent City policies and regulations for annexing real property to the City, so that the City may respond to changing development conditions and requests by property owners outside the City limits for City services. This Division shall apply to all applications to annex property into the City.

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### **10-20.90.020 Initiation of Annexations**

- A. **Council or City Manager**  
The Council or the City Manager may direct the Director to review specific property to determine whether it may be legally annexed and to contact property owners to determine whether they will sign an annexation petition.
- B. **Owner Initiation**  
One or more property owners may submit an application to annex property they own into the City.

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### **10-20.90.030 Procedures**

- A. **Pre-Application Review**  
An optional pre-application review with the Director is recommended for all annexation applications in compliance with the procedures set forth in Section 10-20.30.040 (Pre-Application Review by Director). In conformance with A.R.S. § 9-471 et. seq., the applicant should include information on how the development will be provided with appropriate levels of infrastructure and services within 10 years after the annexation. If a General Plan amendment or Zoning Map amendment (Division 10-20.50 (Amendments to the Zoning Code Text and the Zoning Map)) is anticipated, the applicant should present preliminary information regarding these requests.

**B. Annexation Application**

Applications for annexations shall be submitted to the Director in compliance with the application procedures set forth in Section 10-20.30.020 (Application Process), and shall include the information and materials specified in the Planning Section handout for annexations together with the required fee in compliance with Appendix 2 (Planning Fee Schedule).

**C. Procedures for Review and Approval**

All applications for annexations of real property shall be reviewed, processed and approved in conformance with A.R.S. § 9-471 et. seq. (Annexation of territory; procedures; notice; petitions; access to information; restrictions).

**D. Procedures for Review and Approval**

In conformance with State law, areas annexed into the City shall initially be assigned land use zone classifications which permit densities and uses no greater than those permitted by Coconino County immediately before annexation. Subsequent changes in the zone of the annexed areas shall be made according to the procedures established in Section 10-20.050 (Amendments to the Zoning Code Text and the Zoning Map).



# Division 10-20.100: Assurance of Performance for Construction

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## Sections:

- 10-20.100.010 Purpose
- 10-20.100.020 Applicability
- 10-20.100.030 Assurances Required
- 10-20.100.040 Acceptable Forms of Assurance of Performance

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### 10-20.100.010 Purpose

The purpose of this Division is to comply with Arizona law regarding assurances of performance and to set forth the City's expectations of developers regarding subdivision infrastructure.

(Section 10-20.100.010 amended by Ord. 2015-01, adopted Mar. 3, 2015)

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### 10-20.100.020 Applicability

- A. The provisions of this Division apply to the following:
1. Public improvements within City public rights-of-way;
  2. Public improvements on private property within easements; and,
  3. For subdivisions, private improvements on public and private property, including, but not limited to:
    - a. Franchise utilities (such as electric, gas, phone, or cable);
    - b. Drainage improvements;
    - c. Landscaping as identified and approved by the preliminary plat;
    - d. Private streets and alleys; and
    - e. Other private amenities included in the subdivision plat such as clubhouses, pools, and ramadas.

(Section 10-20.100.020 amended by Ord. 2015-01, adopted Mar. 3, 2015)

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**10-20.100.030 Assurances Required**

If the public and private subdivision infrastructure has not been constructed and accepted by the City Engineer, no final plat shall be recorded, nor shall a building permit be issued, until the applicant has posted an assurance of performance as set forth in Section 10-20.100.040 (Acceptable Forms of Assurance of Performance), below. If the applicant or any of its successors or assigns obtains by any means a portion of the platted property before the improvements described in Section 10-20.100.020 (Applicability) have been accepted by the City Engineer in writing, then the new property owner must post a new assurance as set forth in Section 10-20.100.040 below and sign a new Assurance of Performance Agreement. The City Engineer may require a new Engineer's Estimate at this time, or may require reasonable increases in the amount of the assurance due to increased costs, inflation or other appropriate reason. Any remaining assurance posted by the applicant (or a successor) will not be released until the successor has posted the new assurance and signed the Assurance of Performance Agreement.

In lieu of the requirements above, a third-party trust agreement with the City that prohibits conveyance of title to the subdivision or any portion of the subdivision until after the infrastructure has been constructed and accepted by the City Engineer may replace the assurances required above if it is in a form of agreement acceptable to the City.

(Section 10-20.100.030 amended by Ord. 2015-01, adopted Mar. 3, 2015)

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**10-20.100.040 Acceptable Forms of Assurance of Performance**

A. The City Engineer may require the applicant to post separate assurances to cover portions of the improvements and may require the posting of an assurance to cover the costs of securing the site should the improvements remain incomplete as described in Subsection C.1 below. The following forms of assurance may satisfy the requirements of Section 10-20.100.030 (Assurances Required):

1. **Cash Deposit**

The applicant may provide a cash deposit. The City Finance Division will maintain a separate accounting for the deposit; however, the applicant does not accrue interest on this type of assurance;

2. **Certificate of Deposit**

The applicant may provide a certificate of deposit (automatically renewable). The certificate of deposit must be accompanied by an "Assignment of Certificate of Deposit and Acknowledgement by Issuer" form;

3. **Letter of Credit**

The applicant may provide an irrevocable standby letter of credit from an approved bank or other approved financial institution authorized to do

business in the State of Arizona. The irrevocable letter of credit shall provide that if all required improvements are not completed and accepted within the time allowed, the City may draw sufficient funds from the letter of credit to finance the construction of any remaining required improvements; or,

**4. Performance Bond**

The applicant may post a performance bond issued by a surety bonding company holding a certificate of authority to transact business in the State of Arizona. Bonds shall not be executed by an individual surety or sureties. The bond shall be made payable and be acceptable to the City, written and countersigned by an authorized representative of the surety who is either a resident of the State of Arizona or whose principal office is maintained in this State, and have attached thereto a certified copy of power of attorney of the signing official. In addition, said company shall be rated "A-" or better as required by the City, as currently listed in the most recent Best Key Rating Guide, published by the A. M. Best Company.

**B. Procedures for Assurance of Performance Options**

1. All of the above assurance of performance options must be accompanied by a City "Assurance of Performance Agreement" for the required improvements. In addition, if the applicant is a legal entity, such as a corporation, limited liability company, partnership or trust, the assurance must also be accompanied by a City "Authorized Signature" form. In addition, the applicant shall provide an engineer's estimate of probable construction cost prepared by a registered engineer licensed in Arizona, which itemizes all of the costs to design and construct the required improvements. The City Engineer or his or her designee may sign the Assurance of Performance Agreement on behalf of the City after approval as to form by the City Attorney or his or her designee.
2. The applicant shall provide to the City Engineer an assurance in a form specified in Subsection A above, and approved by the City Engineer and City Attorney, for performance of the required improvements in an amount not less than 120 percent of the cost as estimated by the applicant's engineer for the construction and installation of the required improvements, or uncompleted portions thereof. At the discretion of the City Engineer, the assurance amount may be increased above 120 percent in situations which may include, but are not limited to, incomplete design construction plans or anticipated design or construction difficulties. The City may also require the applicant to post additional assurances in the course of the project if the estimate relating to franchise utilities is underestimated at the time the assurance is posted. The original amounts of the assurance option selected by the applicant, as provided in Subsection A above, including cash deposits, letters of credit and performance bonds, but excluding certificates of deposit, may be reduced or drawn down upon acceptable completion of portions of the required improvements as determined by the City Engineer. The City Engineer

may authorize releases of no less than 20 percent of the assurance. In no event, without prior approval of the City Engineer, shall the assurance be reduced below 20 percent of its original amount until the required improvements are completed and accepted and the one-year warranty period has expired. All sums of the assurance remaining, including interest where applicable, shall be returned or released to the applicant within 30 days after the one-year warranty period has expired.

#### C. Term of Obligation

1. The period within which the required improvements must be completed shall be incorporated into the documents creating the assurance. If the improvements are not completed within the specified period as evidenced either by a lack of work on the improvements for a period of 60 consecutive calendar days (except for adverse weather conditions); or the improvements as constructed are not acceptable to the City and the applicant is unwilling or unable to make satisfactory corrections, the City may, upon written notice to the applicant thereof, draw from the applicable assurance funds the estimated amount necessary to complete the improvements.
2. The applicable assurance, or applicable portion thereof, shall remain in full force and effect until the required improvements have been completed and accepted by the City Engineer by a letter of acceptance; or until the applicable assurance funds have been exhausted by the City. The City may deduct from the proceeds obtained from the assurance its reasonable attorneys' fees, costs and administrative costs for enforcing and/or administering the assurance. The City may reduce the amount of public or private improvements constructed from the proceeds of the assurance as a result of that deduction.
3. An extension of the period within which the required improvements must be completed may be granted for sufficient cause for the improvements at the discretion of the City Engineer if requested in writing by the applicant, provided that the term of the applicable assurance is extended for such period. At the time the extension is requested, the City Engineer may require additional assurances due to a change in circumstances such as increased costs, inflation, or other appropriate reasons.

(Section 10-20.100.040 amended by Ord. 2015-01, adopted Mar. 3, 2015)

## Division 10-20.110: Enforcement

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### Sections:

10-20.110.010	Purpose
10-20.110.020	Violations
10-20.110.030	Enforcement Authority
10-20.110.040	Interference with Enforcement Personnel
10-20.110.050	Police to Assist in Enforcement Activities
10-20.110.060	Civil Enforcement; Penalties
10-20.110.070	Criminal Enforcement; Penalties
10-20.110.080	Other Powers and Remedies
10-20.110.090	Enforcement by Stop Work Order

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### 10-20.110.010 Purpose

The purpose of this Division is to set forth provisions for enforcing the provisions of this Zoning Code. Any violation of this Zoning Code shall be subject to the enforcement remedies and penalties provided in this Division or by State law.

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### 10-20.110.020 Violations

- A. It shall be unlawful for a responsible party to allow or permit, facilitate, suffer, or aid or abet any violation of any provision of this Zoning Code, or to fail to perform any act or duty required by this Zoning Code.
- B. Each day any violation of any provision of this Zoning Code, or the failure to perform any act or duty required by this Zoning Code, continues shall constitute a separate offense.

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### 10-20.110.030 Enforcement Authority

The Zoning Code Administrator shall have the power and responsibility to conduct inspections and enforce this Zoning Code and any other Title or Division of the Flagstaff City Code as determined by the City Manager. The Zoning Code Administrator shall have authority to enter any building, structure or premises or any part thereof, at any and all reasonable times in compliance with legal requirements governing administrative inspections of private property, for the purpose of performing his/her official duty. The Zoning Code Administrator is hereby authorized to commence an enforcement action in compliance with this Division by issuing a citation for civil sanctions in the Flagstaff Municipal Court in compliance with City Code Title 1 (Administration), Chapter 1-15 (Municipal Court), Section 1-15-001-0011 (Civil Enforcement Procedures). The Zoning Code Administrator may also seek the issuance of a

complaint by the Chief Prosecutor of the City of Flagstaff for criminal prosecution of habitual offenders as defined in this Division.

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**10-20.110.040 Interference with Enforcement Personnel**

It shall be unlawful for any person knowingly to interfere with, hinder, or obstruct enforcement personnel in the performance of their official duties.

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**10-20.110.050 Police to Assist in Enforcement Activities**

It shall be the duty of the Police Department to assist in the enforcement of this Zoning Code.

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**10-20.110.060 Civil Enforcement; Penalties**

- A. Any responsible party that allows, permits, facilitates, suffers, or aids or abets any violation of any provision of this Zoning Code, or fails to perform any act or duty required by this Zoning Code, shall be responsible for a civil violation unless otherwise specified.
- B. Any person found responsible for violating this Zoning Code shall be sentenced to a fine of not less than \$100. Any person found responsible of a second violation of this Zoning Code committed within 36 months of a prior violation of this Zoning Code shall be subject to a fine of not less than \$250. Any person found responsible of a third or subsequent violation of this Zoning Code within 36 months of a prior violation of this Zoning Code shall be subject to a fine of not less than \$500.
- C. Every civil action or proceeding in compliance with this Division shall be commenced and prosecuted in compliance with City Code Title 1 (Administration), Chapter 1-15 (Municipal Court), Section 1-15-001-0011 (Civil Enforcement Procedures).

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**10-20.110.070 Criminal Enforcement; Penalties**

- A. Any person found responsible by the Flagstaff Municipal Court for three or more civil violations of this Zoning Code within a 24-month period, whether by admission, by payment of the fine, by default, or by judgment after hearing, shall be deemed to be a habitual offender. For purposes of calculating the 24-month period in compliance with this paragraph, the dates of the commission of the offenses are the determining factor.
- B. A habitual offender who subsequently violates this Zoning Code shall be guilty of a class one misdemeanor.

- C. Every criminal action or proceeding made pursuant to this Division shall be commenced and prosecuted in compliance with the laws of the State of Arizona relating to misdemeanors and the Arizona Rules of Criminal Procedure.

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**10-20.110.080 Other Powers and Remedies**

The Director and Zoning Code Administrator shall have such other enforcement rights, powers, and remedies as are and may from time to time be provided for or permitted by Arizona law for the enforcement of zoning regulations, or for the litigation by action or appeal of controversies in regard to zoning regulation or enforcement.

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**10-20.110.090 Enforcement by Stop Work Order**

The Director may issue an order to stop work on any development, excavation, building, or structure on any land on which there is an uncorrected violation of a provision of this Zoning Code or of a permit or other form of authorization issued pursuant to this Zoning Code. The Director may also order work to be stopped in the event the activity is being conducted without having obtained a required permit or approval. In addition to the issuance of complaints against habitual offenders, the Chief Prosecutor is authorized to issue complaints for those violations of this Zoning Code deemed criminal.

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